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JOHN F. DAVIS, CLERK

United States Court of Appeals For the First Circuit

**NEW ENGLAND ELECTRIC
SYSTEM ET AL.,**

PETITIONERS,

**SECURITIES AND
EXCHANGE COMMISSION,**

RESPONDENT.

**RECORD APPENDIX
TO
BRIEF FOR PETITIONERS**

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Initial Commission Proceedings,
Pleadings and Testimony
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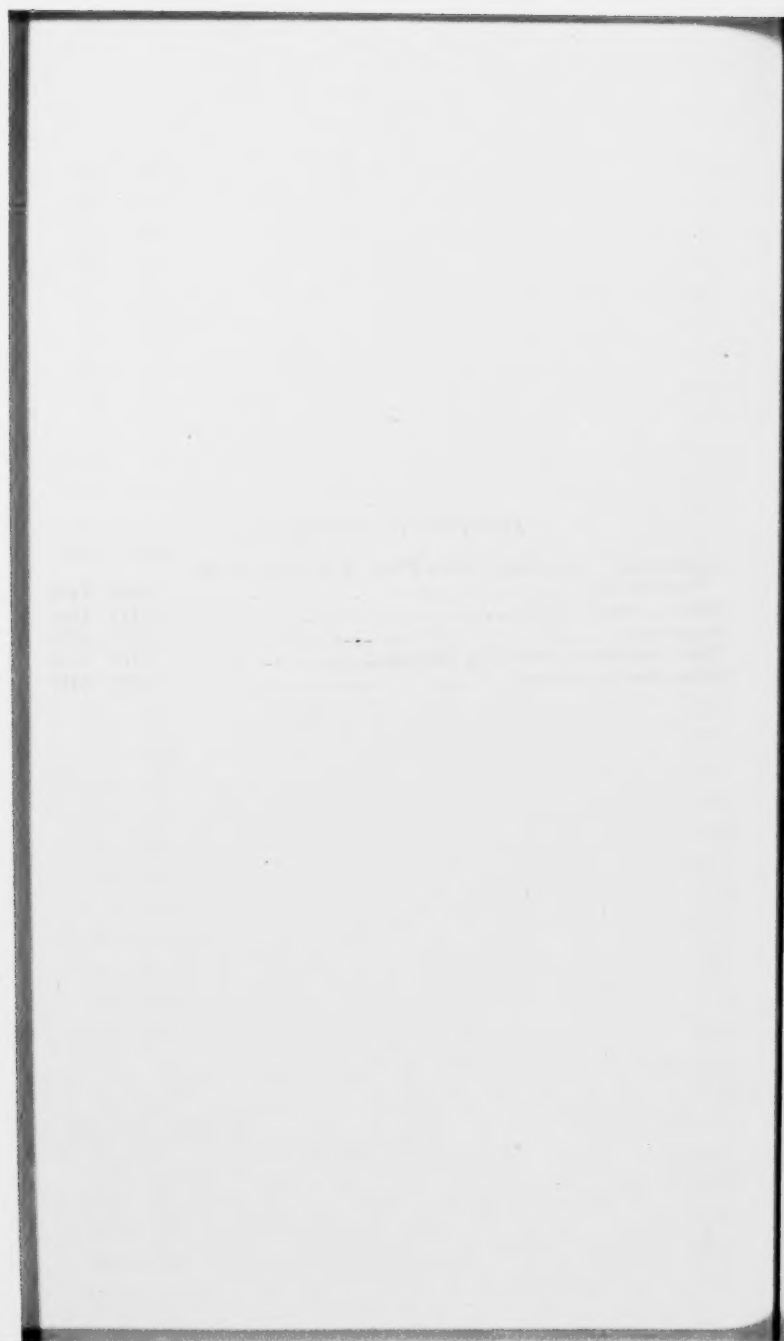


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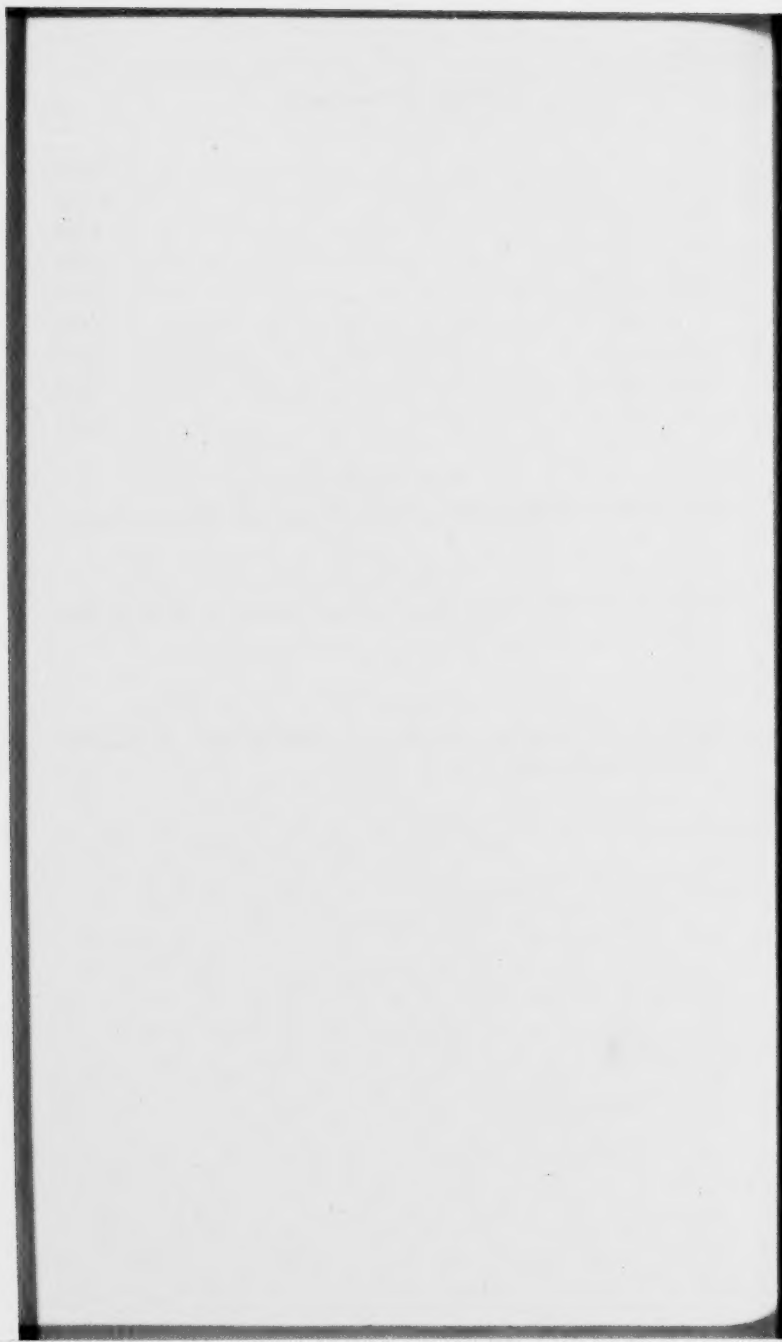
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RELEVANT DOCKET ENTRIES BELOW

1. Notice and order of the Commission dated August 5, 1957 for hearing pursuant to section 11(b)(1) of the Public Utility Holding Company Act of 1935.
2. Joint Answer of all Respondents filed September 30, 1957.*
3. Respondents' Motion to Dismiss filed January 2, 1958.
4. Findings and Opinion and Order of the Commission dated February 20, 1958 dismissing proceedings in respect of certain issues.
5. Order of the Commission dated February 8, 1960 reconvening hearing.
6. Notice of Appearance and Answer of The Commonwealth of Massachusetts, Department of Public Utilities.
7. Findings and Opinion and Order of the Commission dated March 19, 1964.
8. Application of Respondents for stay of order pending judicial review.
9. Order of Commission dated June 25, 1964 granting stay.

* References to "Respondents" are to the Petitioners herein who were Respondents before the Commission.

UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
August 5, 1957

In the Matter of
NEW ENGLAND ELECTRIC SYSTEM
AND
ITS SUBSIDIARY COMPANIES
RESPONDENTS

File No. 59-102

(Public Utility Holding Company Act of 1935)

NOTICE OF AND ORDER FOR HEARING
PURSUANT TO SECTION 11(b)(1) OF THE
PUBLIC UTILITY HOLDING COMPANY
ACT OF 1935

The Commission having been advised by its Division of Corporate Regulation ("Division") that the Division, pursuant to Sections 11(a), 18(a) and 18(b) of the Public Utility Holding Company Act of 1935 ("Act"), has examined the corporate structure of New England Electric System, the corporate structure of its subsidiary companies, the relationships among the companies in the holding company system, the character of the interests thereof and the properties owned or controlled thereby; and it appearing to the Division from such examination that:

I

1. New England Electric System ("NEES"), a voluntary association created in 1926 in Massachusetts by Agreement and Declaration of Trust, is solely a holding company and is registered as such under Section 5 of the Act. It maintains its principal offices in the city of Boston, Massachusetts.

2. As of December 31, 1956, NEES had 32 subsidiaries, of which 16 were engaged exclusively in the electric business, one was engaged in the electric and gas business, one was in the process of constructing a nuclear power plant, eight were engaged exclusively in the gas business, one owns land, four were inactive and one was engaged in the business of rendering services for system companies. Taken together these subsidiaries conduct their businesses in the States of Connecticut, Massachusetts, New Hampshire, Rhode Island and Vermont, comprising an area of about 4,500 square miles and having a total population in excess of 2,200,000 persons.

3. (a) The names of the subsidiary companies embraced in the holding company system of NEES as of December 31, 1956, their relationships being indicated by indentation, the states of organization and operation, the nature of their business and the percentage of voting securities owned by system companies are shown in the following table:

35 - 13525				Nature of Business	
% of Voting Control		State of Organization	State of Operations	Nature of Business	
New England Electric System				Holding Company	
*Amesbury Electric Light Company		Mass.	—	Electric	
Attleboro Electric Company		Mass.	Mass.	Electric	
Bellows Falls Hydro-Electric Corporation		N. H./ Vt.	—	Inactive	
Central Massachusetts Gas Company		Mass.	Mass.	Gas	
Connecticut River Development Company		Mass.	Mass.	Owning Properties	
Essex County Electric Company		Mass.	Mass.	Electric	
Granite State Electric Company		N. H.	N. H.	Electric	
*Haverhill Electric Company		Mass.	Mass.	Electric	
*Lawrence Electric Company		Mass.	Mass.	Electric	
Lawrence Gas Company		Mass.	Mass.	Gas	
*The Lowell Electric Light Corporation		Mass.	Mass.	Electric	
The Mystic Power Company		Conn.	Conn.	Electric	
Mystic Valley Gas Company		Mass.	Mass.	Gas	
The Narragansett Company		Mass.	Mass.	Electric	
The Narragansett Electric Lighting Company		R. I.	—	Gas	
The Narragansett Electric Company		R. I.	—	Inactive	
New England Power Company		R. I.	R. I.	Inactive	
		Mass.	Mass.,	Electric, gas	
			N. H./Vt.	Electric,	
			Mass.	holding company	
Yankee Atomic Electric Company		Mass.	Mass.	Electric	
New England Power Service Company		Mass.	—	Service Company	
Northampton Electric Lighting Company		Mass.	Mass.	Electric	
Northampton Gas Light Company		Mass.	Mass.	Gas	
Northern Berkshire Electric Company		Mass.	Mass.	Electric	
North Shore Gas Company		Mass.	Mass.	Gas	
Norwood Gas Company		Mass.	Mass.	Gas	

	% of Voting Control	State of Organization	State of Operations	Nature of Business
The Pequot Gas Company	100.00	Conn.	Conn.	Gas
Quincy Electric Company	100.00	Mass.	Mass.	Electric
Southern Berkshire Power & Electric Company	99.66	Mass.	Mass.	Electric
Suburban Electric Company	98.73	Mass.	Mass.	Electric
Wachusett Gas Company	100.00	Mass.	Mass.	Gas
Weymouth Light and Power Company	99.70	Mass.	Mass.	Electric
Worcester County Electric Co.	99.31	Mass.	Mass.	Electric
Yellow Cab Company	100.00	R. I.	—	Inactive

*These companies are in process of merging into Essex County Electric Company pursuant to an order issued by this Commission on May 23, 1957 (Holding Company Act Release No. 13480).

The above tabulation of subsidiaries does not include Lynn Gas and Electric Company ("Lynn"), a Massachusetts corporation which is engaged in the electric and gas business in that State. NEES has, subsequent to December 31, 1956, acquired approximately 94% of the voting securities of Lynn pursuant to an order of this Commission issued April 22, 1957 (Holding Company Act Release No. 13456).

(b) As indicated above, New England Power Company ("Nepco") is an electric utility company and also a holding company by virtue of its ownership of 30% of the voting securities of Yankee Atomic Electric Company ("Yankee"), which was organized in 1954 for the purpose of constructing and operating an atomic nuclear power plant of approximately 134,000 Kw capacity. The plant is to be located in western Massachusetts, is scheduled for completion in 1960 and the output of the plant will be sold to 12 New England utility companies which are stockholders of Yankee. Nepco's acquisition of shares of Yankee's stock was effected pursuant to an order of this Commission dated December 18, 1956 (Holding Company Act Release No. 13339). Concurrently therewith Nepco's application for an exemption as a holding company was granted but Nepco as a subsidiary of NEES and Yankee as a subsidiary of Nepco remain subject to various provisions of the Act as subsidiaries of a registered holding company.

4. (a) The consolidated gross operating revenues of the NEES system for the twelve months ended December 31, 1956 (excluding Lynn) amounted to \$142,385,041, including \$125,294,786 from the sale of electric energy, and \$16,521,875 from the sale of gas. Other revenues, consisting principally of rentals, aggregated \$568,380.

(b) As at December 31, 1956, the system's property account, excluding the properties of Lynn, was as follows:

Property, plant and equipment
including intangibles: (a)

Electric plant	\$475,914,408
Gas plant	44,320,843
Construction work in progress	52,411,921
Other	1,195,096

Total	\$573,842,268
Less reserves for depreciation	102,296,664

Net property, plant and equipment,
including intangibles \$471,545,604

(a) \$457,788,400 of the gross property account is
stated at original cost.

II

5. (a) The electric utility operations in the NEES system (including those of Lynn and reflecting the Essex merger) are conducted by 14 electric utility subsidiaries, two of which are also engaged in gas utility operations. These subsidiaries render retail electric service in 198 municipalities of which 146 are in Massachusetts, 27 in Rhode Island, 21 in New Hampshire and 4 in Connecticut. The total area served is in excess of 4500 square miles and the total population is about 2,350,000 persons. In addition, some of the subsidiary companies sell electric energy at wholesale for resale to various non-affiliated utilities and municipalities. Many of these municipalities purchase their entire electric energy requirements, and utilities serving a large portion of Vermont purchase substantial portions of their requirements from system companies.

(b) The electric energy requirements of the system companies (excluding Lynn) for 1956 were supplied largely by 12 steam-electric and 22 hydro-electric generating stations owned and operated by system companies, 76% being

generated by system companies and 24% being purchased at a cost of \$14,057,032. The principal source of purchased power from non-affiliated companies is Boston Edison Company which during 1956 delivered 746.5 million Kwh at an aggregate cost of \$9,059,297. Of the total energy generated by the system companies, about 98% was produced by Nepco, The Narragansett Electric Company and Worcester County Electric Company.

6. The nature and locale of the electric operations of the subsidiaries in the NEES system are as follows:

(a) Nepco is an exempt holding company and an electric utility company engaged in the generation, purchase, transmission and sale of electric energy in wholesale quantities to associate and other electric utility companies doing a retail distribution business and to large industrial customers. Nepco operates in the States of Massachusetts, New Hampshire and Vermont but has no residential or commercial customers. During 1956 Nepco generated 2,299,222,565 Kwh of which about 53.6% was produced by steam-electric stations and 46.4% by hydro-electric stations. It purchased 1,751,867,850 Kwh of which about 48.6% was obtained from associates and 51.4% from non-affiliates, principally from Boston Edison Company and Niagara Mohawk Power Corporation. Nepco's gross plant at December 31, 1956 amounted to \$190,818,000 and its gross operating revenues from the sale of electric energy, for the 12 months ended December 31, 1956, amounted to \$49,762,800 of which \$36,172,800 was derived from sales to affiliates, \$7,190,000 from sales to non-system utilities and \$6,400,000 from direct sales to large industrial users.

(b) Narragansett Electric Company ("Narragansett") owns and operates facilities for the generation, transmission, distribution and sale of electric energy and the production, transmission and distribution of gas. Its business is conducted in the larger part of Rhode Island

where, in 1956, electric service was provided to 196,300 customers in 27 cities and towns, including Providence, within an area of about 870 square miles having an aggregate population of about 544,000 persons. Its electric energy requirements are supplied almost entirely by its own generating facilities and electric energy is sold for resale to three associate companies in the NEES system and to three non-affiliated utility companies. During 1956 Narragansett generated 1,881,215,278 Kwh and sold 686,887,630 to associate companies in the NEES system and 69,223,675 to non-affiliated companies. At December 31, 1956 Narragansett's gross electric utility plant amounted to \$138,653,556 and for the calendar year ended that date its gross operating revenues from electric sales amounted to \$34,633,174.

(c) Worcester County Electric Company ("Worcester") owns and operates facilities for the generation, transmission and distribution of electric energy to about 200,000 customers in 77 cities and towns located in central Massachusetts, covering an area of about 1900 square miles and having a population of about 544,000 persons. During 1956 Worcester generated about 22% of its electric energy requirements and purchased about 77% from Nepeco and a minor amount from another associate (Lowell) and non-affiliates. Its gross operating revenues in the 12 months ending December 31, 1956 amounted to \$31,441,512 and at that date the company had gross electric utility plant of \$78,285,869.

(d) Suburban Electric Company ("Suburban") owns and operates facilities for the distribution of electric energy to about 79,300 customers in six suburban cities and towns north of Boston within an area of 29 square miles with an aggregate population of about 257,000 persons. In 1956 Suburban purchased substantially all of its electric requirements from Nepeco and sold comparatively minor

amounts of electricity to Boston Edison Company, a non-affiliate. For the twelve months ended December 31, 1956 Suburban had gross operating revenues of \$10,661,493 and at that date its gross electric utility plant amounted to \$21,387,610.

(e) Essex County Electric Company ("Essex") will be the survivor by merger of five electric utility companies.¹ Taken together these five companies, in 1956, owned and operated facilities for the generation, transmission, distribution and sale of electric energy. In 1956 they provided electric service to 161,600 customers in 26 cities and towns in northeastern Massachusetts, within an area of 460 square miles, having an aggregate population of about 464,000 persons. The five constituent companies have their own generating plants and, during 1956, produced 75,473,813 Kwh. With the exception of Amesbury, the entire net output of electric energy of these companies was sold to Nepeco and substantially all their individual requirements were purchased from Nepeco. The energy generated by Amesbury is used in its own operating area and additional requirements are purchased from one of the constituent companies (Haverhill). Amesbury also has an agreement with Nepeco for standby and emergency service over a tie line with a non-affiliated company, i.e., Public Service Company of New Hampshire. During 1956 the five companies had combined gross operating revenues of \$27,400,000. Their combined gross fixed property, at December 31, 1956, amounted to \$60,198,060.

(f) Attleboro Electric Company ("Attleboro") owns and operates facilities for the distribution of electric energy

¹ Essex County Electric Company, Amesbury Electric Light Company, Haverhill Electric Company, Lawrence Electric Company and The Lowell Electric Light Corporation. Upon consummation of the merger, it is expected that Essex will change its name to Merrimack-Essex Electric Company.

in Attleboro, Massachusetts and vicinity. During 1956 the company purchased approximately 97% of its energy requirements from Nepeco, less than 3% from Narragansett, and a minor amount from non-affiliates. During the calendar year 1956, Attleboro served an average of 14,689 customers with electricity and derived gross operating revenues of \$2,552,416 from such service. The company's gross electric utility plant at December 31, 1956 amounted to \$4,792,263.

(g) Granite State Electric Company ("Granite") owns and operates facilities for the production, transmission and distribution of electric energy in western New Hampshire. During 1956, it produced approximately 13.1% of its energy requirements, and purchased 20.2% of its energy from Lawrence and 66.7% from Nepeco. Granite served an average of 12,062 customers during the year. Its gross operating revenues for the twelve months ended December 31, 1956 amounted to \$1,611,834 and gross electric utility plant at that date totaled \$4,459,996.

(h) Lynn Gas and Electric Company is a gas and electric utility providing services in the northeastern portion of Massachusetts. It also sells electric and gas appliances. In 1956 electric service at retail was provided to about 47,000 customers in four communities. Lynn also supplies at wholesale about 95% of the electricity requirements of the town of Marblehead. During 1956 Lynn generated approximately 86% of its electric energy requirements, the balance being purchased from Nepeco. The area served with electricity lies between the areas served by two associate electric utility companies in the NEES system. The electric property of Lynn at December 31, 1956 amounted to \$19,303,619 and its total electric operating revenues for the twelve months ended December 31, 1956 amounted to \$6,309,564.

(i) The Mystic Power Company ("Mystic Power")

owns and operates facilities for the transmission and distribution of electric energy to about 7,200 customers in Stonington and Groton, Connecticut. The company purchases all of its energy requirements from Narragansett. Gross electric utility plant at December 31, 1956 amounted to \$1,889,296 and gross operating revenues for the twelve months then ended aggregated \$1,057,059.

(j) Northampton Electric Lighting Company ("Northampton") owns and operates facilities for the transmission and distribution of electric energy in Northampton, Massachusetts and vicinity. The company purchases substantially all of its energy requirements from Nepco. During the calendar year 1956, the company provided electric service to an average of 9,283 customers and derived gross operating revenues of \$1,520,944. As at December 31, 1956, Northampton's gross electric utility plant amounted to \$2,312,741.

(k) Northern Berkshire Electric Company ("Northern Berkshire") owns and operates facilities for the transmission and distribution of electric energy in Adams and North Adams, Massachusetts and vicinity. During 1956 the company purchased over 99% of its energy requirements from Nepco, served an average of 16,126 customers and derived gross operating revenues of \$2,602,381. As at December 31, 1956, the company's gross electric utility plant amounted to \$4,427,617.

(l) Quincy Electric Company ("Quincy") owns and operated facilities for the distribution of electric energy in Quincy, Massachusetts. During 1956, the company purchased its entire energy requirements from Boston Edison Company, a non-affiliate and, in turn, provided Weymouth Light and Power Company, an associate, with substantially all of its energy requirements. During 1956 Quincy served an average of 28,317 customers and derived gross operating revenues of \$5,737,262. As at December 31, 1956, Quincy's gross electric utility plant amounted to \$6,374,791.

(m) Southern Berkshire Power & Electric Company ("Southern Berkshire") owns and operates facilities for the production, transmission and distribution of electric energy in southwestern Massachusetts. During the year 1956, the company served an average of 7,775 customers and derived \$1,184,461 in gross operating revenues. The company produced less than 10% of its energy requirements and purchased substantially all of the balance from Nepco. As at December 31, 1956, Southern Berkshire had gross electric utility plant amounting to \$3,386,490.

(n) Weymouth Light and Power Company ("Weymouth") owns and operates facilities for the production, transmission and distribution of electric energy in Hingham, Randolph and Weymouth, Massachusetts. The company purchases substantially all of its energy requirements from Quincy. During the calendar year 1956, the company served an average of 19,988 customers, and derived gross operating revenues of \$3,158,735. Its gross electric utility plant at December 31, 1956 amounted to \$6,565,775.

III

7. (a) The gas business of the NEES system is conducted by eight gas utility subsidiaries and two combination gas and electric utility subsidiaries (Lynn and Narragansett). As of December 31, 1956 the gas plant of these ten subsidiaries amounted to \$52,462,139 and the consolidated gross operating revenues from the sale of gas, for the twelve months period ending December 31, 1956, amounted to \$19,667,944. In general, the gas operations of these subsidiaries are carried on in parts of the same, or adjacent territory to that of the retail electric operations in the NEES system. In 1956 gas service was provided in 52 municipalities, of which 48 were in Massachusetts, 3 in Rhode Island, and 1 in Connecticut. The total area served with gas is in excess of 700 square miles having a total

population of about 1,070,000 persons. During 1956 an average of about 240,000 customers were served over approximately 2,300 miles of gas mains.

(b) Natural gas is distributed by the gas subsidiaries (including Lynn) with manufactured gas used for peak shaving and standby purposes. The natural gas is purchased from two non-affiliated natural gas pipe line companies, i.e., Tennessee Gas Transmission Company ("Tennessee") and Algonquin Gas Transmission Company ("Algonquin"). Orders of the Federal Power Commission authorize daily deliveries of natural gas up to 75,695 Mcf by Tennessee and up to 4,450 Mcf by Algonquin. The manufactured gas facilities of the subsidiaries of NEES, available for peak shaving and standby purposes have a total rated capacity of 50,800 Mcf per day. Storage holder capacity totaled 23,977 Mcf.

(c) During 1952 NEES established an independent gas division to provide the Massachusetts gas subsidiaries with separate management and sales personnel. Earnings of these properties in 1956 contributed \$1,614,516 to consolidated net income as compared with \$255,504 in 1951. Sales of appliances also increased with total appliance sales by this division, in 1956, aggregating \$2,167,000 including about 6,000 heating installations. This division also has installed more than 10,700 automatic water heaters under a rental program started in January 1955.

8. A summary description of the electric business of the two combination gas and electric utility companies, i.e., Narragansett and Lynn has been set forth in subparagraphs (b) and (h) of paragraph 6 above. The gas business of these two subsidiaries and the other eight gas utility companies are briefly described as follows:

(a) Lynn owns and operates facilities for the production, transmission and distribution of gas. It purchases natural gas from Tennessee and distributes such gas at

retail to about 40,000 customers in communities supplied by Lynn with electric service in northeastern Massachusetts and, in addition, in Lynnfield, Marblehead and small areas of Peabody and Revere. Gas appliances are also sold by Lynn. Lynn's gas properties consist of a manufactured gas plant and two storage holders to supplement the natural gas supply and 357 miles of gas mains. At December 31, 1956 its gas properties amounted to \$8,141,296 and gross operating revenues for the twelve months ended December 31, 1956 from the sale of gas amounted to \$3,159,628.

(b) Narragansett owns and operates facilities for the production, transmission and distribution of gas in Warren, Bristol and Westerly, Rhode Island to about 6,700 customers. It purchases more than 99% of its gas requirements from Algonquin. In addition to the gas sold to general customers, Narragansett has a contractual arrangement to supply standby service to its associate gas utility The Pequot Gas Company. At December 31, 1956 Narragansett's gas properties amounted to \$1,975,989 and its gross operating revenues derived from the sale of gas during the calendar year 1956 amounted to \$446,553.

(c) Central Massachusetts Gas Company ("Central Massachusetts") owns and operates facilities for the transmission and distribution of natural gas to about 9,500 customers in 10 communities and surrounding area in south central Massachusetts. The company purchases all of its gas requirements from Tennessee. As at December 31, 1956 its gross gas utility plant amounted to \$2,104,640 and gross operating revenues for the twelve months then ended aggregated \$794,961.

(d) Lawrence Gas Company ("Lawrence") owns and operates facilities for the production, transmission and distribution of gas in Lawrence, Massachusetts and three nearby communities in the northeastern part of the State.

The company serves approximately 33,000 customers. During the year 1956, Lawrence produced less than 1% of its gas requirements and purchased the remainder from Tennessee. The company's plant account totalled \$5,238,030 at December 31, 1956 and operating revenues aggregated \$2,480,960 for the twelve months ended that date.

(e) Mystic Valley Gas Company ("Mystic Valley") owns and operates facilities for the production, transmission and distribution of gas to 16 communities in eastern Massachusetts, including Arlington, Everett, Malden and Medford. During the twelve months ended December 31, 1956, the company served approximately 98,000 customers and derived \$8,136,035 in gross operating revenues from such operations. Mystic Valley produced less than 1% of its gas requirements, purchased a minor amount of gas from a nearby non-affiliate, and obtained the balance of its requirements from Tennessee. The company's property account amounted to \$21,967,385 at December 31, 1956.

(f) Northampton Gas Light Company ("Northampton") owns and operates facilities for the production, transmission and distribution of gas to approximately 8,000 customers in Northampton and Easthampton, Massachusetts. Gross operating revenues during the year 1956 amounted to \$675,322. Northampton produced less than 1% of its gas requirements and purchased the balance from Tennessee. The company's plant account amounted to \$1,749,615 at December 31, 1956.

(g) North Shore Gas Company ("North Shore") owns and operates facilities for the production, transmission and distribution of gas to approximately 33,000 customers in six communities located in northeastern Massachusetts, including Beverly, Gloucester and Salem. The company produces less than 1% of its gas requirements and purchases the remainder from Tennessee. Gross operating revenues for the twelve months ended December 31, 1956

aggregated \$2,900,012 and gas utility plant at that date totalled \$9,023,246.

(h) Norwood Gas Company ("Norwood") owns and operates facilities for the distribution of natural gas to about 4,200 customers in Norwood, Massachusetts. The company purchases its entire supply of natural gas from Algonquin. Its gross operating revenues for the twelve months ended December 31, 1956 amounted to \$381,993 and gas utility plant at that date aggregated \$953,213.

(i) The Pequot Gas Company ("Pequot") owns and operates facilities for the transmission and distribution of gas to approximately 1,200 customers in Stonington, Connecticut. Pequot purchased its entire supply of natural gas from Algonquin during the calendar year 1956 and paid Narragansett a charge for the transportation of gas and a demand charge for manufactured gas, although no manufactured gas was received into the system during the year. The company's gross operating revenues for the twelve months ended December 31, 1956 aggregated \$101,860 and its total utility plant at that date amounted to \$204,383.

(j) Wachusett Gas Company ("Wachusett") owns and operates facilities for the production, transmission and distribution of gas in north central Massachusetts. During 1956, the company produced less than 1% of its gas requirements and purchased the balance from Tennessee. Gas was sold to approximately 8,100 customers from which the company derived revenues of \$682,105. Wachusett's total utility plant account at December 31, 1956 amounted to \$1,551,146.

IV

9. The Division avers that the foregoing allegations, and the facts otherwise disclosed in the course of its examination of the NEES system, indicate or tend to indicate that:

(a) The holding company system of NEES is not confined in its operations to those of a single integrated public-utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system;

(b) The various gas utility assets and the electric utility assets owned or controlled, directly or indirectly, by NEES and other respondents cannot continue to be controlled by NEES under the standards of Section 11(b)(1), particularly clauses (A), (B) and (C) thereof; and

(c) The various businesses of some of the subsidiaries of NEES, other than the business of a public-utility company as such, may not be retainable as reasonably incidental or economically necessary or appropriate to the operations of either the electric or gas public-utility systems.

V

It appearing to the Commission, on the basis of the above allegations of the Division of Corporate Regulation, that a proceeding should be instituted under Section 11(b)(1) of the Act with respect to the New England Electric System holding company system:

IT IS ORDERED that proceedings be and the same hereby are instituted under Section 11(b)(1) of the Act with respect to the New England Electric System and each of its subsidiary companies hereinbefore named, all of which are made respondents herein.

IT IS FURTHER ORDERED, pursuant to the applicable provisions of the Act, that a hearing be held at the offices of the Securities and Exchange Commission, 425 Second Street, N. W., Washington 25, D. C. on November 12, 1957, at 10:30 A. M. On such day the hearing room clerk in Room 193 will advise as to the room where such hearing will be held. At such time respondents and any other

interested persons will be heard with respect to the matters and questions hereinafter set forth.

IT IS FURTHER ORDERED that such respondents shall file with the Secretary of the Commission on or before September 30, 1957, their joint or several answers in the form prescribed by Rule U-25 under the Act admitting, denying, or otherwise explaining their respective positions as to each of the allegations of Parts I, II, III and IV hereof. The answer should state which of the properties and facilities of the New England Electric System holding company system constitutes the retainable "single integrated public utility system". Any such answer may include a statement of the claim of the respondents, or any of them, as to (a) the action, if any, which is necessary and should be required to be taken by any of the respondents (including the divestment of control, securities or other assets), to limit the operations of the system to a single integrated public-utility system; (b) the extent to which the system should be permitted to continue to control, in addition to its claimed "single integrated public utility system", one or more additional integrated public-utility systems as may meet the requirements of Clauses (A), (B) and (C) of Section 11(b)(1) of the Act; and (c) the extent to which any of said respondents should be permitted to own, operate or control any business (other than the business of a public-utility company as such) as reasonably incidental or economically necessary or appropriate to the operations of such integrated public-utility system or systems. Any such answer may, if such respondents so desire, state that they propose and are prepared to take such action as will cause them to comply with Section 11(b)(1) within the meaning of the Act, together with a description of such action and the time within which they propose to take action.

The Division of Corporate Regulation having advised the Commission that, upon the basis of its preliminary

examination of the New England Electric System holding company system, the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(a) Whether the electric utility assets of the New England Electric System holding company system constitute a single integrated electric utility system or more than one such system;

(b) Whether the gas utility companies of the New England Electric System holding company system constitute a single integrated gas utility system or more than one such system;

(c) The nature, extent and location of the "single integrated public-utility system" of the New England Electric System holding company system;

(d) Whether, in addition to the New England Electric System holding company system's "single integrated public-utility system", any of its additional electric or gas utility systems may be retained under common control under the provisions of Section 11(b)(1) of the Act, specifically Clauses (A), (B) and (C) thereof;

(e) Whether any of the non-utility businesses conducted by the New England Electric System holding company system are reasonably incidental, or economically necessary or appropriate to the operations of the integrated public-utility system or systems retainable under common control;

(f) What action is necessary to be taken by the New England Electric System holding company system to limit the operations of the system to those of a single integrated public-utility system, together with such additional utility systems, and such other businesses, if any, as are retainable under the standards of Section 11(b)(1) of the Act;

IT IS FURTHER ORDERED that at the aforesaid hearing, attention be given to the foregoing matters and questions.

IT IS FURTHER ORDERED that William W. Swift or any other hearing officer or hearing officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The hearing officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18(c) of the Act and to a hearing officer under the Commission's Rules of Practice.

IT IS FURTHER ORDERED that jurisdiction be, and hereby is, reserved to separate, either in whole or in part, or for disposition in whole or in part, any of the issues or questions which may arise in these proceedings, or to consolidate these proceedings, or any portion thereof, with any proceedings which may be instituted subsequently under other provisions of said Act with respect to New England Electric System and its subsidiaries, and to take such other action as may appear conducive to an orderly, prompt and economic disposition of the matters involved.

IT IS FURTHER ORDERED that any person desiring to be heard in connection with these proceedings or proposing to intervene herein shall file with the Secretary of the Commission, not later than five days prior to the date hereinbefore fixed as the date for said hearing, his request or application therefore, as prescribed by Rule XVII of the Rules of Practice of the Commission. Such request shall set forth the nature of the applicant's interest in the proceedings, his reasons for requesting to be heard or to intervene, which of the allegations and issues, as hereinbefore set forth, applicant proposes to controvert, together with a statement of any additional issues which the applicant proposes to raise with respect to the proceedings herein instituted.

IT IS FURTHER ORDERED that the Secretary of the Com-

mission shall serve notice of the hearing aforesaid by mailing a copy of this Notice of and Order for Hearing by registered mail not less than 30 days prior to the date fixed therefor to each of the respondent companies, the Federal Power Commission; the Connecticut Public Utilities Commission; the Department of Public Utilities of Massachusetts; the Public Utilities Commission of New Hampshire; the Public Utility Administrator; Department of Business Regulation of the State of Rhode Island; and the Public Service Commission of Vermont; and that notice of said hearing is hereby given to the aforesaid and to all states, municipalities, and political subdivisions of states within which are located any of the physical assets of the respondent companies, to all state commissions, state security commissions, and all agencies, authorities or instrumentalities of any state, municipality, or other political subdivision having jurisdiction over any of the respondent companies or any of the business affairs or operations of any of them, and to all other interested persons, such notice to be given by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Act; and by publication of this Notice and Order in the Federal Register not later than 30 days prior to the date hereinbefore fixed as the date of hearing.

By the Commission.

(s) ORVAL L. DuBois
Secretary

JOINT ANSWER OF ALL RESPONDENTS

Pursuant to Part V of the Commission's Notice of and Order for Hearing dated August 5, 1957 in the above entitled proceedings, the Respondents file this joint Answer. The abbreviations contained in said Notice and Order are adopted in this Answer.

I.

In certain comparatively minor respects the allegations in Parts I, II and III of said Notice and Order are not accurate. Attached as a part of this Answer is a schedule marked "A" correcting such inaccuracies. As so corrected the Respondents admit said allegations.

II.

The Respondents deny the allegations of Part IV of said Notice and Order.

III.

Further answering, the Respondents aver that:

1. The properties and facilities of such of the Respondents as are electric utility companies (including the electric assets of such of them as are also gas utility companies), together with Nepco's interest in Yankee Atomic Electric Company, constitute a single integrated public-utility system retainable under the Act, and the properties, facilities and businesses of New England Power Service Company either are integral parts of said system or are retainable, and the Respondents should be permitted to own and operate them, as reasonably incidental or economically necessary or appropriate to the operations of said system; and Respondents request that an interim order of the Commission be entered to such effect as soon as may be feasible.

2. In the event that any of the properties and facilities referred to in paragraph 1 above are not retainable as part of a single integrated public-utility system they are retainable, and the Respondents should be permitted to continue to control them, as one or more additional integrated public-utility systems which meet the requirements of clauses (A), (B) and (C) of Section 11(b)(1) of the Act.

3. The properties and facilities of such of the Respond-

ents as are gas utility companies (including the gas assets of such of them as are also electric utility companies) are either retainable as parts of the single integrated public-utility system referred to in paragraph 1 above, or are retainable, and the Respondents should be permitted to continue to control them, as one or more additional integrated public utility systems which meet the requirements of clauses (A), (B) and (C) of Section 11(b)(1) of the Act.

4. To the extent that the Respondents or any of them are engaged in any business other than the business of a public-utility company as such, such business is reasonably incidental or economically necessary or appropriate to the operations of the retainable integrated public-utility system or systems, and the Respondents should be permitted to continue to own, operate and control it as such.

NEW ENGLAND ELECTRIC
SYSTEM

By (s) IRWIN L. MOORE, *Pres.*

ATTLEBORO ELECTRIC COMPANY

By (s) HARRY HANSON, *Treas.*

CENTRAL MASSACHUSETTS GAS
COMPANY

By (s) ALBERT E. WESTWOOD,
Treas.

CONNECTICUT RIVER DEVELOP-
MENT COMPANY

By (s) GEORGE R. ALLEN,
Pres.

GRANITE STATE ELECTRIC
COMPANY

By (s) JOSEPH X. CORBETT,
Secretary

LAWRENCE GAS COMPANY

By (s) HARRY HANSON, *Treas.*

LYNN GAS AND ELECTRIC
COMPANY

By (s) H. E. AYER, *Vice-Pres.*

MERRIMACK-ESSEX ELECTRIC
COMPANY

By (s) HARRY HANSON, *Treas.*

THE MYSTIC POWER COMPANY

By (s) RALPH E. NOCK,
Vice-Pres.

MYSTIC VALLEY GAS COMPANY

By (s) HARRY HANSON, *Treas.*

THE NARRAGANSETT COMPANY

By (s) T. DEXTER CLARKE
Counsel

THE NARRAGANSETT ELECTRIC
LIGHTING COMPANY

By (s) T. DEXTER CLARKE
Counsel

THE NARRAGANSETT ELECTRIC
COMPANY

By (s) RALPH E. NOCK,
Vice-Pres.

NEW ENGLAND POWER
COMPANY

By (s) IRWIN L. MOORE, *Pres.*

YANKEE ATOMIC ELECTRIC
COMPANY

By (s) WILLIAM WEBSTER,
Pres.

NEW ENGLAND POWER SERVICE
COMPANY

By (s) ROBERT F. KRAUSE,
Pres.

NORTHAMPTON ELECTRIC
LIGHTING COMPANY
By (s) ALBERT E. WESTWOOD,
Treas.

NORTHAMPTON GAS LIGHT
COMPANY

By (s) ALBERT E. WESTWOOD,
Treas.

NORTHERN BERKSHIRE
ELECTRIC COMPANY

By (s) ALBERT E. WESTWOOD,
Treas.

NORTH SHORE GAS COMPANY

By (s) HARRY HANSON, *Treas.*

NORWOOD GAS COMPANY

By (s) ALBERT E. WESTWOOD,
Treas.

THE PEQUOT GAS COMPANY

By (s) RALPH E. NOCK,
Vice Pres.

QUINCY ELECTRIC COMPANY
By (s) HARRY HANSON, *Treas.*

SOUTHERN BERKSHIRE POWER
& ELECTRIC COMPANY

By (s) ALBERT E. WESTWOOD,
Treas.

SUBURBAN ELECTRIC COMPANY

By (s) HARRY HANSON, *Treas.*

WACHUSETT GAS COMPANY

By (s) ALBERT E. WESTWOOD,
Treas.

WEYMOUTH LIGHT AND POWER
COMPANY

By (s) ALBERT E. WESTWOOD,
Treas.

WORCESTER COUNTY ELECTRIC
Co.

By (s) HARRY HANSON, *Treas.*

YELLOW CAB COMPANY

By (s) T. DEXTER CLARKE,
Counsel

SCHEDULE A

CORRECTION OF NOTICE AND ORDER

(References are to paragraphs of Notice and Order)

I.

Paragraph 3(a): The footnote in the bottom of the table should be changed to read as follows: "These companies were merged into Merrimack-Essex Electric Company, a company formerly named Essex County Electric Company, pursuant to an order issued by this Commission on May 23, 1957 (Holding Company Act Release No. 13480). As of August 31, 1957, 80.59% of that company's voting securities were owned by NEES."

Paragraph 3(b): At the end of line 9 add "an order of this Commission dated November 25, 1955 (Holding Company Act Release No. 13048) and". At the beginning of the last sentence for "Concurrently therewith," substitute "Concurrently with the November 25, 1955 order,".

II.

Paragraph 6(b): In the second from the last sentence the figure "1,881,215,278" should read "1,886,292,578".

Paragraph 6(c): At the end of the first sentence the figure "544,000" should read "602,600".

Paragraph 6(e): At the beginning of the ninth line the figure "75,473,813" should read "75,938,565". In the last line after the word "property" the words "in service" should be added.

Paragraph 6(i): At the end of the first sentence after "Connecticut" there should be added "and vicinity".

Paragraph 6(n): At the end of the first sentence after "Massachusetts" there should be added "and vicinity". With respect to paragraphs 6(a), 6(b), 6(c), 6(d), 6(f), 6(g), 6(i), 6(j), 6(k), 6(l), 6(m) and 6(n), the gross plant figures set forth in the Notice and Order are exclusive of Other Physical Property.

III.

Paragraph 7(a): In the second sentence, the figure "\$52,462,139" should read "\$52,928,165".

Paragraph 8(a): In the last line, the figure "\$3,159,628" should read "\$3,146,069".

Paragraph 8(b): In the second sentence for the words "more than 99%", substitute "all".

MOTION TO DISMISS

The respondents by their attorneys move to dismiss so much of the instant proceeding as relates to any of their electric properties or operations on the ground that the record in these proceedings clearly establishes that all such properties and operations constitute a single integrated

public-utility system as defined in the Public Utility Holding Company Act of 1935.

(s) JOHN R. QUARLES

(s) JAMES VORENBERG

ROPES, GRAY, BEST, COOLIDGE & RUGG
Attorneys for the Respondents

December 31, 1957

FINDINGS AND OPINION

INTEGRATION OF HOLDING COMPANY SYSTEM

Definition of Integrated Electric Utility System

Where electric utility assets operated by a registered holding company system are either physically interconnected or capable of physical interconnection so that, under normal conditions, they may be economically operated as a single interconnected and coordinated system and where, in other respects, such assets satisfy the definition of an integrated public-utility system contained in Section 2(a)(29)(A) of the Public Utility Holding Company Act of 1935, *held*, such electric utility assets constitute a single integrated public utility system.

APPEARANCES:

JOHN R. QUARLES and JAMES VORENBERG, for New England Electric System and its subsidiary companies, Respondents.

ROBERT C. BARNARD, for Abacus Fund.

WILLIAM R. NOWLIN, for the Division of Corporate Regulation.

This proceeding concerns the determination of the extent to which the electric, gas, and other business operations of the holding company system of New England Electric System ("NEES"), a registered holding company, satisfy the standards of Section 11(b)(1) of the Public Utility Holding

Company Act of 1935 ("Act"). After appropriate notice,¹ a public hearing was held. By agreement of counsel, the hearing was initially devoted exclusively to the issue as to whether or not the electric operations of the NEES system constitute those of a "single integrated public-utility system" as permitted by Section 11(b)(1).

Following the completion of the testimony in respect of that issue, NEES filed a formal motion and supporting memorandum seeking dismissal of so much of the proceeding as relates to the system's electric operations on the ground that the record establishes that all such properties and operations constitute a single integrated public-utility system.

Although there is no opposition to NEES' motion, we have examined the rather extensive record developed as to this issue. On the basis of the following findings and conclusions, we have determined to grant the motion.

PERTINENT STATUTORY PROVISIONS

Section 11(b) of the Act provides in pertinent part:

"It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

"(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public utility system . . ."

An "integrated public-utility system" is defined in Section 2(a)(29) to mean

¹ *New England Electric System, et al.*, Holding Company Act Release No. 13525 (August 5, 1957).

“(A) As applied to electric utility companies, a system consisting of one or more units of generating plants and/or transmission lines and/or distribution facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation.”

THE NEES HOLDING COMPANY SYSTEM

NEES is a voluntary association created in 1926 in Massachusetts by Agreement and Declaration of Trust and is solely a holding company registered as such under Section 5 of the Act. It maintains its principal offices in the City of Boston, Massachusetts. It has 28 subsidiary companies, of which 12 are engaged exclusively in the electric business, 8 exclusively in the gas business, 2 in a combined electric and gas business, and 4 are inactive.

The names of the electric utility subsidiaries of NEES, the States in which they operate and the nature of their business are as follows:

Attleboro Electric Company	Mass.	Electric TD
Granite State Electric Company	N.H.	Electric GTD
Lynn Gas and Electric Company	Mass.	Electric GTD, Gas PTD
Merrimack-Essex Electric Company	Mass.	Electric GTD
Mystic Power Company, The	Conn.	Electric TD
Narragansett Electric Company, The	R.I.	Electric GTD, Gas PTD

New England Power Company	Mass., Vt., N.H.	Electric GT
Northampton Electric Lighting Company	Mass.	Electric TD
Northern Berkshire Electric Company ...	Mass.	Electric TD
Quincy Electric Company	Mass.	Electric TD
Southern Berkshire Power & Electric Company	Mass.	Electric TD
Suburban Electric Company	Mass.	Electric TD
Weymouth Light and Power Company ...	Mass.	Electric TD
Worcester County Electric Company	Mass.	Electric GTD

G—Generation T—Transmission D—Distribution P—Production

In addition, Yankee Atomic Electric Company ("Yankee"), 30% of the common stock of which is held by New England Power Company ("NEPCO"), was organized in 1954 for the purpose of constructing and operating an atomic nuclear power plant of approximately 134,000 Kw capacity in Western Massachusetts. The plant is scheduled for completion in 1960 and its output is to be sold to 12 New England utility companies. The acquisition by NEPCO of its interest in Yankee was effected pursuant to an order of this Commission in connection with which we found that the acquisition would, *inter alia*, tend towards the development of the integrated public utility system of NEES.² Another subsidiary of NEES, New England Power Service Company ("NEPSCO"), is a service company which provides technical services to the system's public-utility companies.

The electric utility subsidiaries of NEES conduct a retail electric business in substantial portions of Rhode Island and Massachusetts and in relatively small areas of Connecticut and New Hampshire. Altogether, these companies provide retail electric service to 810,000 customers in an area of about 4,500 square miles with a total population of about 2,300,000. In addition, they sell electricity

² *Yankee Atomic Electric Company et al.*, 36 S.E.C. 552, 564-66 (1955).

for resale to various non-affiliated utilities and municipalities in Vermont, New Hampshire, Massachusetts and in a small area in Rhode Island.

At December 31, 1956, the total electric plant investment of NEES' electric utility subsidiaries was \$547,637,969. The Kwh sales of such subsidiaries for the year 1956 were 5,434,013,000 and their electric operating revenues were \$131,615,000. The system peak load in 1956 was almost 1,200,000 Kw.

Attached hereto as Appendix A is a map of the NEES electric system.

DESCRIPTION OF ELECTRIC OPERATIONS OF THE NEES SYSTEM

For the year 1956, 76% of the electric energy requirements of the above electric utility companies(excluding Lynn Gas and Electric Company)³ was generated by system companies and the balance was purchased from non-affiliates. The system owns and operates 12 steam-electric and 22 hydro-electric generating stations. The important hydro-electric stations are located on the upper Connecticut River in New Hampshire, and on the Deerfield River in northwestern Massachusetts and adjoining area in southern Vermont. The system's hydro-electric generating stations have a capability of 553,000 Kw and are linked to its extensive transmission system by high voltage lines almost all of which are owned by NEPCO. Also connected to this transmission system are the fuel-burning generating sta-

³ Pursuant to an exchange offer authorized by us, NEES acquired 93.76% of the common stock of Lynn Gas and Electric Company in 1957. In permitting the exchange to be made we found that the acquisition of the common stock of Lynn Gas and Electric Company would tend toward the economical and efficient development of the electric properties operated by the NEES system. See *New England Electric System*, Holding Company Act Release No. 13456 (April 22, 1957).

tions having an aggregate capability of 767,930 Kw, the more important plants being located at Providence, Rhode Island, and in Worcester and Salem, Massachusetts. The system's transmission facilities are also connected with those of several non-affiliates, the principal one being Boston Edison Company which serves the Boston metropolitan area and with which the system has power interchange arrangements.

In general, the steam stations in the NEES system carry the system's base load; water is stored in reservoirs during low load periods so as to have the hydro-electric capacity available to meet peak loads. Purchased power is also used to satisfy load requirements when economical. The system's electric utility assets comprising generating stations, transmission lines and distribution facilities are physically interconnected with each other over system owned and operated facilities except as discussed below.

The service area of Northampton Electric Lighting Company ("Northampton"), which operates in the west central portion of Massachusetts, is separated from the service area of its closest associate company, Worcester County Electric Company, by the service area of Western Massachusetts Electric Company ("Western Massachusetts"), a non-affiliate. At the nearest points, the service areas of the two associate companies are 5 miles apart. The peak load of Northampton in 1956 was some 14,000 Kw. The service area of Southern Berkshire Power & Electric Company ("Southern Berkshire"), which operates in southwestern Massachusetts, is also separated from the service area of its closest associate company, Northern Berkshire Electric Company, by the service area of Western Massachusetts. At the nearest points, the service areas of the two associate companies are about 7 miles apart. The peak load of Southern Berkshire in 1956 was some 8,500 Kw.

Under an agreement between NEPCO and Western

Massachusetts the latter takes from NEPCO such electricity as may be required to service the energy requirements of Northampton and Southern Berkshire and in turn delivers to Northampton and Southern Berkshire their energy requirements at the points of interconnection between them and Western Massachusetts.⁴ The deliveries of energy from NEPCO to Western Massachusetts and from the latter to Northampton and Southern Berkshire are made as nearly as possible on a simultaneous basis. The payment for the energy is made directly by Northampton and Southern Berkshire to NEPCO in the same manner and at the same rate as other system companies make payments to NEPCO for purchased energy.

The service areas of Quincy Electric Company ("Quincy") and of Weymouth Light and Power Company ("Weymouth"), which companies operate in the east central portion of Massachusetts, adjoin each other, and the facilities of these two companies are interconnected. Quincy's service area is approximately 8 miles from the nearest points of the service areas of two other associate companies, Worcester County Electric Company and Lynn Gas and Electric Company. The properties of Quincy are adjacent to the City of Boston and the properties of both Quincy and Weymouth lie at the southeasterly portion of a high voltage transmission loop circling metropolitan Boston. A number of subsidiaries of NEES, along with Boston Edison Company, feed power into this loop. Approximately two-thirds of the loop is owned by NEPCO and one-third by Boston Edison Company. The power requirements of Quincy and Weymouth are supplied by Boston Edison Company pursuant to a contract which is terminable by either party on one year's notice. The peak load for the Quincy-Weymouth area for 1956 was 68,850 Kw.

⁴ A minor portion of Southern Berkshire's power requirements is furnished by two small hydro-electric stations owned and operated by it.

The Tiverton distribution area of the Narragansett Electric Company ("Narragansett") is located in the southeastern portion of Rhode Island and its facilities are not directly connected with those of Narragansett's transmission system. Tiverton's power requirements (with a peak demand in 1956 of some 4,000 Kw) are supplied by a non-affiliate, Fall River Electric Light Company, whose facilities are, in turn, connected with those of the NEES system. In the event Fall River's capacity to supply the Tiverton load is impaired, the NEES system is in a position to make up any deficiency in the supply.

CAPABILITY OF INTERCONNECTION AND COORDINATED OPERATION

Although the facilities of the four companies described above and the Tiverton area of Narragansett are not at present directly connected with the high voltage transmission system of NEES, engineering studies and testimony regarding the feasibility and costs of making such direct interconnections were submitted by NEES. To make such interconnections would require the construction of 16 miles of 69 Kv transmission line for Northampton, 13 miles of 115 Kv and 6 miles of 23 Kv transmission lines for Southern Berkshire, 35 miles of 115 Kv and 6 miles of 23 Kv transmission lines for Quincy-Weymouth and 8 miles of 23 Kv transmission line for the Tiverton area. While the existing arrangements are merely those which, at present, make the best economic sense, the necessary interconnections would be constructed forthwith if the present arrangements with the non-affiliate companies were terminated.

The record indicates that the system's electric business is conducted on a unified basis. Construction of new generation, transmission and other facilities is planned with a view to the requirements of the system as a whole as well

as of the constituent company or companies which may be particularly affected. Daily coordination of the power supply for the system is controlled by a central system dispatcher, located at Millbury, Massachusetts, who schedules and controls, principally through automatic electronic equipment, the use of the important generating units in the system. He also arranges the daily purchases and sales with neighboring companies.

The supplying of power for the Southern Berkshire and Northampton areas, which are not directly connected with the system's high voltage transmission lines, is in important respects coordinated with that of the system as a whole since the necessity of satisfying their daily requirements is the responsibility of the NEES system dispatcher. As to the Quincy-Weymouth areas, the automatic controls in the NEES system instantly detect any power deficit arising in the transmission loop surrounding the Boston area, including the power requirements of the Quincy-Weymouth areas, and under normal conditions the NEES system is in a position to rectify automatically from its generating facilities the power deficit. Similarly, in the event the supply to the Tiverton area should be impaired, the NEES system is in a position to supply the load automatically.

Accordingly, we find that the electric utility assets in the NEES system are physically interconnected or capable of physical interconnection and may be economically operated as a coordinated system.⁵

OTHER STATUTORY STANDARDS

The electric operations of the NEES system are conducted in a comparatively small and compact area in five

⁵ Cf. *The North American Co.*, 11 S.E.C. 194, 241-243 (1942); *Cities Service Power & Light Co.*, 14 S.E.C. 28, 52-55 (1943); *Federal Light & Traction Co.*, 15 S.E.C. 675, 679-681 (1944).

contiguous States in New England. The distance between the most northerly point and the most southerly point in the system is approximately 200 miles; and the distance between the most westerly point and the most easterly point is approximately 150 miles.

Although the record indicates that most of the principal executive and technical personnel who formulate system policy and planning and control the affairs of the system have their offices at the central headquarters in Boston, it is noted that, by reason of the comparatively compact area served, the central organization has ready access to almost any part of the system and can maintain daily contact with local needs and conditions. In this connection, the local companies employ experienced local managers to deal with local problems of operation, such as day-by-day customer relationships, supervision of local employees and public relations. The manager is a member of the local company's Board of Directors and in most instances other local residents are also members of the Board.

The electric distribution properties of the NEES system are subject to the regulatory jurisdiction of the State commissions in the four States in which the system renders retail service, namely the Connecticut Public Utilities Commission, the Department of Public Utilities of Massachusetts, the Public Utilities Commission of New Hampshire, and the Public Utility Administrator, Department of Business Regulation of the State of Rhode Island. Each of these commissions has extensive regulatory jurisdiction over the operations of the respective companies located in their respective States. The retention under common control of the various electric properties does not appear to impair the effectiveness of State regulation.

CONCLUSIONS

Upon consideration of the entire record, we are of the opinion that the electric utility assets owned and operated by subsidiaries in the NEES holding company system are either physically interconnected or are capable of physical interconnection so that, under normal conditions, they may be economically operated as a single interconnected and coordinated system and in other respects meet the definition of an integrated public utility system as applied to electric utility companies set forth in Section 2(a)(29)(A) of the Act.

We shall, therefore, dismiss the proceeding insofar as it relates to the issue of whether the electric utility assets of the NEES holding company system constitute a single integrated public utility system, and shall reconvene the hearing at an appropriate time for the taking of evidence with respect to the other issues in the proceeding.

An appropriate order will issue.

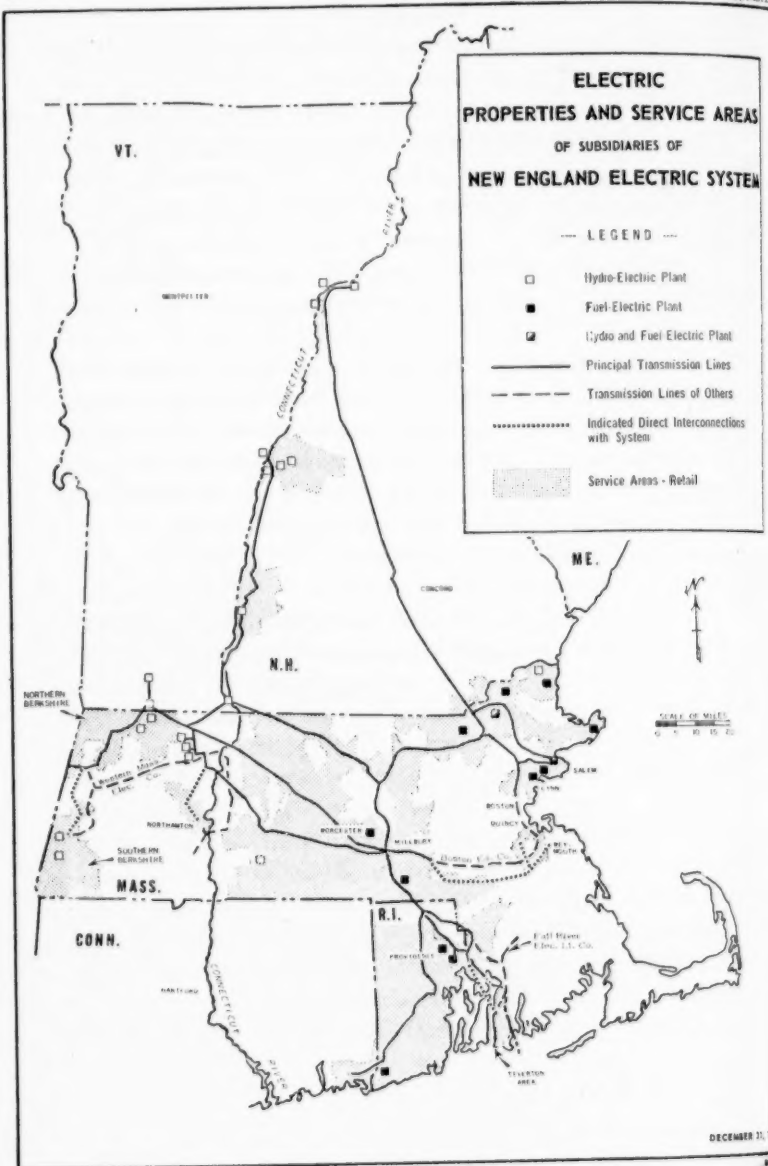
By the Commission

(Chairman GADSBY and Commissioners ORRICK,
PATTERSON, HASTINGS and SARGENT).

(s) ORVAL L. DuBois

Secretary

[SEAL]



**ORDER DISMISSING PROCEEDING
IN RESPECT OF CERTAIN ISSUES**

The Commission having, on August 5, 1957, issued its Notice of and Order for Hearing pursuant to Section 11(b)(1) of the Public Utility Holding Company Act of 1935 ("Act") in respect of New England Electric System and its Subsidiary Companies, Respondents (Holding Company Act Release No. 13525), to determine what action, if any, shall be required to be taken to limit the operations of the system to a single integrated public utility system and to such additional systems and other businesses as are retainable under the provisions of Section 11(b)(1) of the Act; and

A public hearing having been held after appropriate notice, at which evidence was adduced solely with respect to the issue of whether the electric utility assets of New England Electric System and its subsidiaries constitute a single integrated public utility system; and

New England Electric System having filed a motion and supporting memorandum requesting dismissal of the proceeding insofar as it relates to said issue; and

The Commission having considered the record on said issue; and having this day issued its Findings and Opinion herein, on the basis of such Findings and Opinion:

IT IS ORDERED that the proceeding heretofore instituted by the Commission's Notice of and Order for hearing of August 5, 1957, issued pursuant to Section 11(b)(1) of the Act, in respect of New England Electric System and its Subsidiary Companies, Respondents, be, and hereby is, dismissed insofar as such proceeding relates to the issue of whether the electric utility assets embraced in the holding company system of New England Electric System constitute a single integrated public utility system.

IT IS FURTHER ORDERED that, in all other respects, said proceeding is continued in full force and effect. A further

hearing will be held herein upon the remaining issues at such time and place as may be ordered by the Commission or fixed by the hearing examiner heretofore designated.

By the Commission.

(s) ORVAL L. DuBOIS

ORVAL L. DuBOIS

Secretary

[SEAL]

ORDER RECONVENING HEARING

The Commission having, on August 5, 1957, issued its Notice of and Order for Hearing pursuant to Section 11(b)(1) of the Public Utility Holding Company Act of 1935 ("Act"), in respect of New England Electric System ("NEES") and its Subsidiary Companies (Holding Company Act Release No. 13525), for the determination of what action, if any, should be required to be taken to limit the operations of the system to a single integrated public-utility system and to such additional systems and other businesses as are retainable under the standards of Section 11(b)(1) of the Act; and

A public hearing having been held after appropriate notice, at which evidence was adduced solely with respect to the issue of whether the electric utility assets of NEES and its Subsidiaries constitute a single integrated public-utility system; and

The Commission having, on February 20, 1958, issued its Findings and Opinion (Holding Company Act Release No. 13688) concluding, among other things, that the electric utility assets owned and operated by the Subsidiaries in the NEES system met the definition of an integrated public-utility system as applied to electric utility companies set forth in Section 2(a)(29)(A) of the Act; and having issued its Order wherein it dismissed the proceeding insofar as it related to the issue of whether the electric utility assets embraced in the holding company system of

NEES constitute a single integrated public-utility system, but in all other respects continued the proceeding in full force and effect upon the remaining issues concerning which a further hearing would be held at such time and place as might be subsequently ordered by the Commission or fixed by the hearing examiner; and

It appearing to the Commission that it is appropriate and in the public interest and the interest of investors and consumers that the hearing be reconvened:

IT IS THEREFORE ORDERED that the hearing in the above entitled proceeding be reconvened on May 18, 1960 at 10:00 o'clock in the forenoon of that day, at the Headquarters Office of the Securities and Exchange Commission, 425 Second Street, N.W., Washington 25, D.C.

By the Commission.

(s) ORVAL L. DuBOIS
Secretary

NOTICE OF APPEARANCE AND ANSWER

I.

The Department of Public Utilities of The Commonwealth of Massachusetts hereby enters its appearance in this proceeding, and files this written notice of appearance pursuant to Rule XVII (a) of the Rules of Practice of the Commission.

II.

The position of the Department of Public Utilities of The Commonwealth of Massachusetts with respect to the matters set forth by the Securities and Exchange Commission in its Notice of and Order for Hearing dated August 5, 1957 is that the economies of joint operation of gas and

electric properties by the New England Electric System holding company system are substantial, that a separation of such joint operation would be adverse to the interests of the residents of this Commonwealth and may necessitate increased gas rates as a result of the apparent substantial additional expenses flowing from the separation of such joint operation and that, under the provisions of Section 11(b)(1) of the Public Utility Holding Company Act of 1935, specifically Clauses (A), (B) and (C) thereof, the gas utility companies of the New England Electric System holding company system may be retained under common control with the system's integrated electric-utility system.

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

By: (s) FRANCIS X. LANG

Chairman

Dated: May 9, 1960

STENOGRAPHIC TRANSCRIPT OF HEARING

* * *

[593]

BEFORE THE
SECURITIES AND EXCHANGE COMMISSION

In the Matter of:

NEW ENGLAND ELECTRIC SYSTEM

AND

ITS SUBSIDIARY COMPANIES

File No. 59-102

(Public Utility Holding
Company Act of 1935)

Room 292

Securities and Exchange Commission

425 2nd Street

Washington, D.C.

Wednesday, May 18, 1960

The above-entitled matter came on for further hearing,
pursuant to recess, at 10:00 o'clock a.m.

Before:

JAMES G. EWELL, Hearing Examiner

Appearances:

JOHN R. QUARLES and JAMES VORENBERG, Esqs., 50
Federal Street, Boston Massachusetts, RICHARD
B. DUNN, Esq. 441 Stuart Street, Boston, Mass.,
and WILLIAM D. ANDREWS, Esq., 50 Federal Street,
Boston, Mass., for and on behalf of the Respon-
dents

TROY T. MURRAY, Esq., Department of Public Utili-
ties, Room 167, State House, Boston, Mass., for
and on behalf of the Department of Public Utili-
ties

WILLIAM R. NOWLIN, Esq., Counsel, Division of
Corporate Regulation, Securities and Exchange
Commission

[594]

PROCEEDINGS

Hearing Examiner Ewell: The record will show that the hearing is reconvened in the matter of New England Electric System and its subsidiary companies, under the Commission's file No. 59-102, pursuant to the Commission's order of February 8, 1960, which stated, among other things, that the proceeding involving the question of the retention of the electric utilities has already been disposed of by the Commission by its order of February 20, 1959, and that the hearing should be reconvened for the purpose of disposing of the remaining issues in the proceeding under Section 11(b) 1 of the Public Utility Holding Company Act of 1935.

The Commission's order set the matter down for this morning, May 18th, at 10:00 o'clock, and we are now ready to proceed with the taking of testimony in pursuance of that order.

First, I would like to call attention, though, to the fact that I have received a notice of appearance on behalf of the Commonwealth of Massachusetts, Department of Public Utilities, by Francis K. Lang, Chairman.

This notice of appearance is rather brief, and I think it might be appropriate to read it into the record.

First, I will ask if there is anyone here present representing the Department of Public Utilities.

[595] Mr. Murray: I am here representing the Massachusetts Department of Public Utilities. My name is Troy T. Murray, Member of the Massachusetts Bar.

Hearing Examiner Ewell: Under our rules any state or political sub-division thereof may become a party upon filing of a notice and application for that purpose.

Is there any objection? I think the motion will be granted, and as indicated, I think I will read this paragraph into the record.

The second paragraph states:

"The position of the Department of Public Utilities of the Commonwealth of Massachusetts with respect to the matter set forth by the Securities and Exchange Commission in its notice and order for hearing dated August 5, 1957 is that the economies of joint operation of gas and electric properties by the New England Electric System holding company system are substantial, that a separation of such joint operation would be adverse to the interests of the residents of this Commonwealth and may necessitate increased gas rates as a result of the apparent substantial additional expenses flowing from the separation of such joint operation, and that under the provisions of Section 11 (b) 1 of the Holding Company Act of 1935, specifically clauses (a) (b) and (c) thereof, the gas utilities of the New England Electric System holding company system may be retained under common [596] control with the system's integrated electric utility system."

This letter is signed by the Commonwealth of Massachusetts, Department of Public Utilities, as I indicated before.

The motion to intervene in the proceeding is granted, and I will ask if there is anyone else who wishes to enter an appearance in this matter.

Mr. Quarles: Mr. Hearing Officer, on behalf of the respondents, the appearances of Mr. Vorenberg and myself were entered in the earlier sessions. I would like also to have noted of record the appearance of Mr. Richard B. Dunn, attorney of Boston, and Mr. William Andrews, also an attorney of Boston, as counsel for the respondents.

Hearing Examiner Ewell: All right. Of course, Mr. Nowlin appears for the Division.

Mr. Nowlin: Mr. Examiner, before we proceed with the testimony, I would like to state for the record the Com-

mission's order reconvening the hearing in this matter was printed and published in the Federal Register February 16, 1960, in Volume 25, Number 32 at Page 1387.

Hearing Examiner Ewell: I want to ask again if there is anyone else who wishes to enter an appearance in this matter or be heard in connection with this proceeding.

The record will show no response.

So, I assume that we are ready to go forward now [597] with the taking of testimony, if there are no other appearances.

Mr. Quarles: As a preliminary to that, I would like to tie this hearing in with the preceding one, if I may.

As you may recall, in my opening statement at the commencement of these proceedings in November of 1957, I pointed out that there were certain differences between the issues concerning the retainability by NEES of its electric utility assets and its gas utility assets, respectively; that with respect to the former, the facts were relatively simple and easy to establish, whereas the latter would require a different and more comprehensive kind of treatment; and that for practical reasons, including particularly those relating to financing, it seemed desirable to separate the two and deal first with the electric assets.

This proposal was adopted and in due course, after hearings, as you have mentioned, the Commission issued its findings and opinion determining that the electric assets of the System constitute a single integrated public utility system and are retainable as such. This is the principal utility system of NEES.

[598] We come now to a consideration of the gas utility assets. As indicated at a previous hearing, in view of the position taken by the Commission in other cases, we do not press the contention that these assets may be retained as a part of our single utility system but will direct our attention to demonstrating that they are retainable as an

additional integrated system, or alternatively as more than one such additional system, by reason of complying in every respect with the so-called ABC tests of Section 11 (b)(1). A determination that they are so retainable will not be inconsistent with any previous decision of the Commission or the courts with which we are familiar.

In fact, we are satisfied that such a decision is required by the express language of the statute as applied to the facts of this case.

Recognizing that it is the policy of the Commission to order segregation of electric and gas utility systems in the absence of a clear showing to the contrary, and that if we are to retain both we must prove our case by positive evidence, we may possibly have gone further than necessary to make sure of our facts, checking and rechecking our conclusions, and procuring expert professional advice of the highest standing on all questions of opinion or judgment involved in our determinations. If this should appear to be so, Mr. Hearing Officer, we ask your indulgence, and [599] assure you that we will present our evidence as expeditiously as the gravity of this case permits.

To fully appreciate the facts with respect to the gas properties in the NEES system as they are today, it is necessary to consider them in their historical context. The reorganization of the NEES system to comply with Section 11(b)(2) of the Public Utility Holding Company Act was consummated in 1947.

During the next few years the electric utility business in New England experienced an unprecedented growth, but the manufactured gas business failed to keep pace, and by about 1950-1951 had reached a very low ebb.

The coming of natural gas was imminent and full of promise, but the cost of conversion to it would be substantial. There was some uncertainty as to the retainability by the NEES System under Section 11(b)(1) of the

Act of its gas business as it was then constituted. NEES was experiencing difficulty in the equity financing of its business. In view of this total situation the NEES management decided to explore the possibility of disposing of its gas holdings, hoping that the prospect of natural gas would enable it to get a satisfactory price. It invited bids and in the fall of 1951 entered into an agreement of sale of substantially all its gas properties, conditional only on the purchasers' being able to arrange the necessary [600] senior financing.

In February of 1952, NEES was notified that the financing efforts had failed and that the contract was terminated. By that time natural gas in the area had become a reality and it was essential to go forward without delay.

In view of all the circumstances, after careful consideration NEES then decided to suspend all efforts to sell its principal gas properties and set about developing the full potential of its natural gas business. This has involved substantial changes in management and personnel, corporate structure, and property holdings, all of which will be explained in some detail by our witnesses.

Briefly summarized, a separate and independent gas division was established and given full authority to operate the gas properties independently of and in competition with the electric properties and to promote aggressively the development and extension of the gas service; the corporate organization has been substantially rearranged by successive mergers, consolidations, transfers and the like to effect complete separation of the gas properties from the electric properties and to provide a simplified and practical corporate structure appropriate to the needs of the gas utility business; and by eliminating fringe properties, the gas system has been reduced to a small compact group of companies, all situated in the State of [601] Massachusetts and all but one served by the same pipeline.

In brief, we will show that the effect of this program has been to bring the gas properties of the System, while under common ownership and operation, within the definition of a single integrated gas utility system, and in any event, whether technically one or more such systems, clearly within the requirements of the Act for common control and operation; and at the same time to develop an operating organization and program for the electric and gas properties under common ownership which is functionally an efficient and integrated system, even if technically under the Act it is necessary to regard the total enterprise as consisting of a principal electric system and one or more secondary gas systems. We also expect to show that both the electric companies and the gas companies and their customers benefit by the combination; that separation would inevitably result in substantial losses of economies to both, especially the gas companies and their customers; and that, in view of the critical competitive situation of the gas utility industry in New England by reason of distance from the gas fields and absence of natural storage facilities, the loss of economies that would result from such a separation would seriously threaten the future of these gas companies.

Looking now at the specific provisions of the Statute, it appears that there is only one substantive [602] issue remaining in this case. The electric properties have been cleared, and I assume there is no question about the service company. This leaves merely the question of compliance of the gas properties with the provisions of Clauses (A), (B) and (C) of Section 11(b)(1) of the Act.

Since all of the properties are in a single state, the requirement of Clause (B) is met.

In view of the small size of the total system and particularly of the gas system, it does not seem that any serious question could be raised under Clause (C); and if there is

any theoretical doubt, it appears to be resolved by the facts of actual experience, the details with respect to which will be presented in the course of this hearing.

Finally, we have the question under Clause (A) whether the several gas companies could be operated independently without the loss of substantial economies now available to them; and it is to this that we have principally addressed our attention.

Even though by virtue of their present common ownership and joint operation the several gas companies may be regarded as a single integrated utility system, it appears that, in segregation studies and in applying the ABC tests, they must be examined individually and on the assumption that if separated from the NEES system each of them would be operated independently. If they were to be [603] disposed of, it would be in whatever manner proved feasible at the time, and there is no basis for assuming that they would be kept together under new ownership. We have accordingly made our studies of them separately. But, by way of exploring all possible alternatives, although we may not have the right to assume the possibility of joint operation after severance, we have also examined the extent to which the economies lost in separation could be salvaged and retained if in any way a plan could be found to operate all of the gas properties as a single independent system.

Briefly stated, the position of the respondents in this proceeding is as follows:

One, the corporate structure and administrative organization of NEES as developed under the Holding Company Act and now in effect are appropriate to the situation of the System and provide the framework for efficient operation of all its utility properties and for good service to the public. This has been amply demonstrated in actual practice.

Two, the present clean-cut separation of gas and electric management in independent departments facilitates aggressive promotion and development of each without prejudice or favor to either. In view of all the circumstances, the record of the gas companies in the NEES Gas Division compares favorably with the other gas companies throughout New England.

[604] Three, the unique competitive handicap of the gas industry in New England by reason of being further from the source of supply of natural gas and having no natural storage facilities for peak shaving and therefore having higher costs for gas than any other area in the United States, while the prices of competing fuels are as low here as anywhere in the country, necessitates availing of every possible advantage and makes the loss of any economy critically serious.

Four, separation of the gas companies from the NEES system would inevitably result in substantial losses of economies which they now enjoy and without which their future would be less secure, even if a way could be found to keep them together and operate them jointly as a single gas utility system.

Five, separation would also result in substantial losses to the related electric companies, which is particularly significant in this case as such losses would ultimately fall principally on the same customers as the gas company losses since, in large measure, the gas and electric customers are the same individuals.

Six, having gas and electric properties under common ownership and control is not in any way contrary to the public policy of Massachusetts and does not in any way interfere with but actually facilitates regulation by state [605] authority.

Seven, continued ownership and control of its present gas properties by NEES is entirely consistent with the

broad purpose and policy as well as the specific provisions of the Holding Company Act.

Eight, in sum, this case is unique and differs in substantial ways from any that has previously come before the Commission, and on the facts, as they will be brought out in the evidence, the Holding Company Act requires a finding that the gas companies now in the NEES system may be retained by it.

Although the relevant facts appear to be quite simple, determining with the maximum degree of certainty and accuracy the amount of the loss of economies that would result from separation has required long and tedious work and the application, at various points, of experience and mature judgment. This work has been done by NEES personnel with the aid of its regular professional advisors and by Ebasco Services Incorporated, an independent engineering and consulting organization. The two groups have worked in collaboration in some areas and along parallel lines in other areas, each exercising independent judgment on all matters of opinion or judgment. Senior members of the NEES organization and of Ebasco, as well as staff and operating personnel who did the field work and assembled the [606] statistics, are here for direct testimony and cross examination.

In the interest of presenting the subject matter in logical sequence and producing as clear a record as possible, we would like the privilege, as in previous hearings, of having certain witnesses testify in installments as different aspects of the case are developed, instead of being required to complete their testimony and be cross examined before being excused from the stand; and of course we will be happy to have counsel for the staff defer cross examination until all of our evidence is in and the staff has had an opportunity to examine the transcript.

Also, following the previous practice, if agreeable to Mr.

Nowlin, I suggest that we wait until the evidence is in before we discuss post-hearing procedures, such as staff participation in the preparation of the decision, the need for any specific findings or a recommended decision by the hearing officer, the thirty-day waiting period, briefing, oral argument, etc., and that in the meantime all rights in these respects be reserved.

I think it is implicit in what I have already said that the respondents are taking this case seriously and regard it as different from any case previously before the Commission. With respect to one or more of these procedural matters, therefore, when the time comes, we [607] may well ask for a different procedure from that followed in the electric case.

We plan to present our case in the following order.

Mr. William Webster, President of NEES and NEPSCO will present a brief and general picture of the NEES System as it exists today, with emphasis on the gas side.

Mr. Robert S. Quig, Coordinator of the Management Consulting Division of Ebasco Services, Incorporated, will outline the assignment given to Ebasco and the manner in which it was carried out by Ebasco personnel under his supervision, and will present the report submitted by Ebasco.

Mr. Harold Dalbeck, head of the Gas Division of NEES and President of the several gas companies, will describe the gas division, its history, organization, management, properties and operation, and will describe the effect of severance on the gas companies.

Mr. Leigh Fitzgerald, a Vice President of New England Power Service Company, will similarly describe that portion of the NEES electric utility system which is directly related to the gas system by reason of serving common customers, using common facilities or personnel, or otherwise concerned with the gas business at the operating level,

and will describe the effect on the electric companies of the gas companies' being removed from the [608] System.

Mr. Robert F. Krause, a Vice President of NEES and NEPSCO, will describe changes in the System since the hearing in 1957, and will explain the relationships between the gas and electric divisions at the executive level and the manner in which each operates independently of and in competition with the other. He will also supplement his testimony given in 1957 on the Service Company, with emphasis on the effect which gas severance would have.

Mr. Harry Hanson, Vice President and Treasurer of NEES and NEPSCO and Treasurer of most of the operating companies, will describe the Treasury Department under his Supervision and the manner in which it functions with respect to both the electric and the gas companies. His testimony will be supplemented by Mr. Elmer Lothar, Vice President and Comptroller of NEPSCO. They will, among other things, present financial statements and exhibits and will describe the effects which severance of the gas companies would have in the treasury and accounting end.

We will then call several members of the Ebasco organization who participated in making the study and preparing the report and ask them to explain how the work was done, what standards and tests were applied, how firm the conclusions are and in general the soundness and reliability of the conclusions reached in the report.

[609] Members of the Ebasco group and Mr. Dalbeck will then be asked to analyze the extent to which the losses on segregation would result from separating the gas operations from the electric operations and the NEES system, and the extent to which they would result from separating the gas companies from each other, in other words, to what extent these losses could be avoided by keeping all of the gas companies together and operating them under common ownership and control.

Finally, Mr. Webster will be recalled and questioned concerning his expert opinion on the conclusions expressed by other witnesses, on the application of the ABC tests to the facts of this case, on the materiality of the risks to the gas companies in segregation and on the net effect of this segregation.

Hearing Examiner Ewell: Mr. Quarles, in regard to your statement that you intend to present some of the testimony of certain witnesses, perhaps in segments, as need might arise, I assume, though, that it will be all concluded, each witness's testimony will be concluded in your direct case.

Mr. Quarles: Yes, in the direct case, before we suggest an adjournment for the study of the record. That is correct. Our thought is merely that it would be a more readable record and a clearer record if we deal first with [610] the study on the assumption of separate operation of the individual gas companies and then deal with it on the other assumption of a possible way of continuing operation of the gas companies as an independent system.

Hearing Examiner Ewell: All right. Are you ready to go ahead?

Mr. Quarles: I would like first to call Mr. Webster.

Mr. Nowlin: If you don't mind, just a minute. I assume the answer is pretty obvious, that in the event it should be determined that the gas properties are not retainable, together with electric properties, that the management of NEES would select the electric properties in lieu of the gas properties.

Mr. Quarles: That selection has been made. I think it was in the record before, in my opening statement. I did express the idea that the electric system is the principal system.

Mr. Nowlin: Thank you, sir.

Mr. Quarles: Now, may I recall Mr. Webster who has

already been sworn and testified in the earlier phase of the case.

Hearing Examiner Ewell: All right.

[611] Whereupon,

WILLIAM WEBSTER

having been previously sworn, resumed the stand and testified further as follows:

Direct Examination

By Mr. Quarles:

Q. Mr. Webster, when you testified in November 1957 in the earlier hearings with respect to these proceedings, I believe you said that you were Executive Vice President and a Director of NEES, President and a Director of Narragansett Electric Company, President and a Director of Yankee Atomic Electric Company and a director of New England Power Company. Since that time have there been any changes in your positions with the NEES holding company system? A. Yes. Effective February 25, 1959, I resigned as Executive Vice President of NEES and was elected President. On December 22, 1959, I resigned as President of Narragansett Electric Company but remained on the board of that company. Effective January 4, 1960, I was elected President and a Director of New England Power Service Company. In addition to these positions I have continued as President and a Director of Yankee and as a Director of New England Power Company.

Q. In previous hearings in this case, respondent's exhibit No. 2 listed the subsidiaries of NEES and showed [612] the percentage of NEES ownership of each subsidiary. Have there been significant changes since that time? A. Yes, there have been.

Q. I show you a tabulation entitled "Subsidiaries of New England Electric System at April 1, 1960" and ask you to

describe it. A. This lists the subsidiaries of NEES and shows the percentage of the common stock of each owned directly by NEES as of the date indicated. NEES has the controlling interest, in most cases one hundred percent of twenty-three subsidiaries. Fourteen of these subsidiaries are engaged solely in the electric business, eight solely in the gas business and one is a service company. As noted at the bottom of this table, New England Power Company, one of the NEES electric subsidiaries, owns thirty percent of the common stock of Yankee Atomic Electric Company.

Q. Was this table prepared under your supervision?

A. Yes, it was.

Q. And does it accurately set forth the information it purports to show? A. It does.

Mr. Quarles: I will offer that as Respondent's Exhibit No. 50. That is the next number.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: Respondent's Exhibit No. 50 [613] will be received.

(Respondent's Exhibit No. 50 marked for identification and received in evidence.)

By Mr. Quarles:

Q. Please describe briefly the significant changes which have taken place in these corporate relationships since Exhibit No. 2 was submitted in the previous hearings in this case. A. In the first place, as a result of hearings before this Commission, a plan for the exchange of NEES shares for the publicly held minority interests in common shares in the straight electric subsidiaries of NEES was approved. The Findings and Opinion and Order were dated May 14, 1959. This was enforced by an order of the United States District Court in June 1959 and was consummated in July 1959. This involved Merrimack-Essex, Southern Berkshire, Suburban Electric, Weymouth and Worcester County and the common stock of these electric companies

is now owned one hundred percent by NEES. The then Lynn Gas and Electric Company was not involved in the minority interest proceeding as it was at that time a recent acquisition and was a combination company.

Early in 1959, the Pequot Gas Company, located in the southeast corner of Connecticut was sold and at the same [614] time Narragansett Electric Company sold its gas properties located in Westerly, Rhode Island. Later in December 1959, Narragansett disposed of its remaining gas properties in Warren and Bristol, Rhode Island and thus became a straight electric company.

On February 5, 1960, pursuant to approval by this Commission and by the Massachusetts Department of Public Utilities, the electric and gas properties of Lynn Gas and Electric Company were separated. Lynn Gas and Electric Company changed its name to Lynn Electric Company and continues to own and operate the electric properties and Lynn Gas Company, a new company, owns and operates the gas properties.

The four inactive subsidiaries which were referred to in the previous hearings, Connecticut River Development Company, the Narragansett Company, The Narragansett Electric Lighting Company and Yellow Cab Company, have all been dissolved.

Q. The properties, service areas and operations of the electric subsidiaries of the NEES were described in this proceeding in 1957. Have there been any significant changes since that time? A. Not in substance. The service areas of the electric companies are substantially the same but the vital statistics of plant investment, number of customers [615] and revenues have increased as the demand for electric service has continued its upward trend. The next important System developments in the electric end of our business will be an additional strong transmission

tie to the west which will further connect the Niagara Mohawk Power Corporation with our system, and a new steam generating station at Brayton Point on Mount Hope Bay near Fall River, Massachusetts. The 230,000 volt transmission line to Niagara Mohawk will enable us to buy 230,000 kilowatts of power from Niagara in 1962 and lesser amounts for the next two years. This arrangement will allow us to build in one single operation the 450,000 kilowatt plant at Brayton Point in two units to come on the line in 1963 and 1964. These generating units can be then immediately fully loaded with the help of some temporary one-unit sales to other New England utilities. The atomic electric generating plant of Yankee Atomic Electric Company is rapidly nearing completion. It is expected to go critical later this year and to be operating on a regular schedule sometime in 1961.

From the standpoint of electric operations as well as gas we have made rapid strides in streamlining our management and operating procedures. It has been and continues to be our objective to manage our electric system as if it were a single company, with lines of authority and responsibility so far as possible running along functional [616] lines, consistent with state laws and corporate boundaries and requirements. This has been an evolutionary process which, while not yet wholly complete, has continued to move ahead in recent years through the elimination of some corporate entities and the grouping of remaining ones on a regional basis. The recent authorization dated December 30, 1959, by this Commission with respect to the organization and conduct of business of New England Power Service Company is expected to enable us to achieve greater efficiencies and to further improve our functional organization.

Q. I next show you a map entitled "New England Electric System—Gas Companies" and ask you to state what it

shows. A. This map shows the location and service areas of the eight gas companies of the NEES system and also shows the two natural gas pipelines which serve New England. These eight System gas companies are all located in Massachusetts and, with the exception of the Norwood Gas Company, all purchase natural gas from the Tennessee Gas Transmission Company. Norwood purchases natural gas from Algonquin Gas Transmission Company.

Q. Was this map prepared under your supervision?
A. Yes, it was.

Q. And does it accurately set forth the information it purports to show? [617] A. It does.

Mr. Quarles: I will offer it as Respondent's Exhibit No. 51.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondent's Exhibit No. 51 marked for identification and received in evidence.)

By Mr. Quarles:

Q. Referring to this map, will you indicate the general location of each System gas company and state the number of customers served by each? A. Incidentally throughout my testimony if I may, I will use round figures. More precise figures are available in the exhibits and elsewhere in the record.

In the upper righthand corner of the map is the North Shore Gas Company which has 33,000 customers. It serves two areas, the Salem-Beverly area and the Gloucester area. The headquarters of this company is in Salem.

Closer to Boston, with its headquarters at Lynn, and serving 41,000 customers is the Lynn Gas Company. Just north of Boston is the largest of our gas companies, the Mystic Valley Gas Company. It has 99,000 customers and has its headquarters in Malden. North of the Mystic Valley service area is the Lawrence Gas Company, which serves

[618] 33,000 customers and which has its headquarters at Lawrence.

Southwest of Boston and serving 4600 customers in the town of Norwood is the Norwood Gas Company. This is the smallest of the System gas companies.

Turning to the west, in the north central part of Massachusetts is the Wachusett Gas Company with its headquarters in Leominster and serving 8,000 customers.

South and west of the Wachusett territory is the Central Massachusetts Gas Company. This company serves two divisions, the Webster and Southbridge Division and the Spencer Division. This company serves 9700 customers and has its headquarters at Webster.

Farther to the west is the Northampton Gas Light Company which has 8,000 customers and which has its headquarters at Northampton.

Q. Now, will you describe in rather broad terms the areas served by these eight companies, having in mind that a subsequent witness will be asked to describe each company in detail? A. These gas companies are, as I have said before, all located in one state, Massachusetts. They serve an aggregate of 237,000 customers located in an area of about 660 square miles with a total population of about 1,032,000 people. Over eighty-five percent of all of our gas customers are located within a 25-mile radius of Malden, [619] Massachusetts, which is the headquarters for all System gas operations. And Malden is just seven miles from the Boston headquarters of the NEES holding company system.

The distance from Northampton to the west and Gloucester to the east is just over 100 miles and from Lawrence to the north and Webster to the south is about 65 miles.

The territories served vary quite widely as between companies in industrial and residential characteristics. Heavy industry is quite generally confined to parts of the terri-

tories of the Mystic Valley Gas Company, the Lynn Gas Company and the Lawrence Gas Company. All of our gas company territories are liberally sprinkled with diversified light industries, which is quite typical, generally, of Massachusetts industry.

Heavy population densities are mainly in the cities of Malden, Medford, Everett and Revere in the Mystic Valley territory, the city of Lynn and the City of Lawrence. The other areas are characterized by moderate to small sized cities and towns. Lynn, with a population of about 99,000 is the largest city served by any System gas company, and is followed by Lawrence with a population of about 76,000. Medford and Malden in the Mystic Valley territory with 65,000 and 59,000 respectively, are the only other cities with a population of over 50,000.

[620] Q. Will you now in general terms compare the gas franchise area of NEES subsidiaries with the retail electric franchise area of NEES subsidiaries? A. As I have said, the eight gas subsidiaries of NEES provide direct gas service to a total of about 237,000 customers in an area in Massachusetts of 660 square miles with a population of approximately 1,032,000 people.

NEES electric subsidiaries provide direct electric service to a total of about 824,000 customers in a retail franchise area of about 4,600 square miles with a population of over 2,300,000 people. These retail electric operations are carried on in four states, New Hampshire, Massachusetts, Rhode Island and a small part of Connecticut.

Comparing the gas operations with electric, it can be seen that the number of gas customers is about 29 percent of the electric customers. The retail gas franchise area of 660 square miles is about 14 percent of the retail electric service area.

Q. Now, I show you a map with the title "New England Electric System Subsidiaries—Electric and Gas Service

Areas in Massachusetts'' and ask you to state very briefly what it shows. A. This map shows the gas retail service areas as well as the electric retail service areas of NEES subsidiaries in the state of Massachusetts. The gas service areas are dark [621] shaded, the electric service areas are shown in vertical cross hatching and the areas where NEES subsidiaries supply both gas and electric service are both shaded and cross hatched.

Q. Was this map prepared under your supervision?

A. It was.

Q. And does it accurately set forth the information it purports to show? A. It does.

Mr. Quarles: I will offer it as Respondent's Exhibit No. 52.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondent's Exhibit 52 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Now, will you develop more fully for us the information shown by this map and describe its significance.

A. First this map shows the extent of the area of "overlap", that is to say, the areas where NEES subsidiaries serve both gas and electric customers. Of the total gas franchise area of 660 square miles, about 494 square miles or 75 percent is also electric franchise area of NEES subsidiaries. The only gas company whose franchise area [622] is not served in any part by an affiliated electric company is the Norwood Gas Company whose electric competition is furnished by a municipally owned electric plant. All of the service areas of Central Massachusetts Gas Company and Lawrence Gas Company are supplied with electricity by System electric subsidiaries. The service areas of the five remaining gas companies, North Shore, Lynn, Mystic Valley, Wachusett and Northampton are sub-

stantially coextensive with those of System electric companies.

Of the total number of gas customers, about 184,000 or over 77 percent are in areas which are supplied with electric service by NEES electric subsidiaries.

This map also shows the relative size of the electric and gas service areas of NEES subsidiaries in Massachusetts. The state of Massachusetts is a relatively small state with an area of only 7,867 square miles. NEES retail electric companies serve about 3300 square miles in Massachusetts which is about 42 percent of the area of the state. The NEES retail gas service area of 660 square miles is only slightly over 8 percent of the area of the state.

Q. What particular significance do you attach to this "overlap" of service areas? A. I understand that later testimony will fully develop and explain the increased operating costs which will occur if the gas properties are assumed to be severed [623] from the New England Electric System. The great bulk of these increased costs will result from the discontinuance of joint operations at the local level in certain functions involved in furnishing gas and electric service. These joint operations would include service orders, meter reading, billing, credit and collections, general accounting and the common use of such physical facilities as offices, garages, etc., all of which are non-competitive. Not only would the operating costs of the gas companies be substantially higher if severed from the System but the retail electric companies, particularly those involved in the joint operations which I have mentioned, would also bear the burden of increases in operating expenses.

Any increased costs of providing electric and gas service must ultimately be borne by the customers using such services. It is upon those combination customers located in the so-called "overlap areas" that the burden of in-

creased costs will fall most heavily. They are both gas and electric customers of NEES companies and will receive the double impact of increased electric service costs and increased gas service costs if the gas companies are separated from the System. As I have said, over 77 percent of all System gas customers or about 184,000 people fall into this category.

Q. Will you now in general terms compare the gas business and properties of NEES with the electric business [624] and properties? A. At the end of 1959 our gross investment in electric plant and equipment amounted in round figures to \$619,000,000. Gas plant and equipment amounted to about \$60,000,000.

Gross revenues for the year 1959 were \$146,000,000 from electric sales and \$25,000,000 from gas sales. \$885,000 was derived from miscellaneous sources mostly incidental to the electric business.

As I have mentioned previously, at the end of 1959, System subsidiaries provided direct electric service to 824,000 customers and gas service to 237,000 customers.

As is clearly demonstrated by these figures, our electric System which the SEC has already found to be integrated, is our principal System.

Q. During the 1957 hearings on the electric aspects of this case, Mr. Moore outlined the history and the growth of the System electric business and properties. Will you now tell us briefly about the development of the gas business? A. NEES first obtained control of some gas business late in 1926 when a controlling interest in Lawrence Gas and Electric Company was acquired. In 1927 gas properties in Rhode Island and Connecticut were acquired through control of the Rhode Island Public Service Company. All of our gas properties other than those of the Lynn Gas Company were acquired before the end of 1931. The Lynn properties were [625] acquired in 1957.

Q. Were the gas properties acquired along with the electric properties? A. Yes. It was quite common in New England for gas and electric properties to be operated as combination corporations or, if separate corporations, to be under common ownership. Thus when, what is now NEES acquired control of several sub-holding companies such as Massachusetts Utilities Associates, Massachusetts Lighting Companies, North Boston Lighting Properties and others, gas properties, as well as electric, came into the System. At one time NEES controlled gas properties in four states; Massachusetts, Rhode Island, Connecticut and Vermont, but has since disposed of all those outside Massachusetts.

In Massachusetts we have in the past disposed of relatively minor gas operations in and around North Adams, in Athol, Gardner, Newburyport and in Blackstone. At one time there were a total of twenty-five active gas companies, either straight gas or combination, in the System and by reason of the disposals which I have mentioned and because of corporate mergers and consolidations, there are now only eight System gas companies and all are located in Massachusetts.

Q. Was there any specific plan or policy behind these various disposals, mergers and consolidations of the gas companies? [626] A. Yes. Our acquisitions of gas and electric companies were usually by groups of companies. Consequently we ended up with some properties, including some of the outlying gas properties, which did not lend themselves to system operation as well as others. Over the years we have sold off properties which did not fit into our system picture and have merged and consolidated others to facilitate their development.

We have, through the Gas Division within our NEES system, achieved an efficient and economic modus operandi for our remaining eight gas companies. Our gas properties

are now generally confined to the eastern half of one state, top corporate officers are generally common to all, and one system divisional organization serves all the gas companies. There are joint operations with the electric business where combination produces economies, and gas operations are separate from electric operations where separation makes for the furtherance of business.

Q. When were the first serious discussions indicating that natural gas might be brought into the New England area?
A. In 1948.

Q. Was that a significant event in the history of gas business in New England? A. Indeed it was. Just prior to the introduction of natural gas into New England, the gas industry generally was in dire straits. The rapid inflation which followed [627] World War II had skyrocketed labor and fuel costs so that the costs of producing manufactured gas reached extremely high levels. Most gas properties in the area were earning little or nothing and some were operating "in the red". Rate increased provided temporary relief but with each increase, it was generally true that the gas business was slowly but surely pricing itself out of the competitive market with other fuels. System gas operations were no exception to this discouraging picture of the New England gas industry in the late forties.

Q. How were the NEES gas companies operated prior to 1948? A. We operated them substantially in the form in which they had been acquired in the early 1930's. The large number of companies which comprised the NEES system in the 1930's was a result of the historical development of the electric and gas industry in the New England area on a town-by-town basis and we were faced with many problems resulting not only from a large number of corporations but also from the several holding companies in the System.

Until the simplification of the holding company system was effected in June of 1947, System officials were concerned not only with the protracted proceedings relating thereto but also with the long Service Company proceedings in the early 1940's. During the same period there were [628] protracted proceedings before the Federal Power Commission in connection with the licensing of hydro electric developments which demanded the attention of several of our top officials.

In 1947, the corporate simplification proceedings under the Holding Company Act were completed, and System officials were able to concentrate on operations of the System.

By 1948, we were already experiencing a post-war growth in our electric business far in excess of what had been anticipated during the early 1940's. At the same time, we had come to realize that the manufactured gas business had a rather dim future and offered little prospect for a fair return on the NEES investment therein.

Q. What happened in the period 1948 to 1951? A. As I have already stated, beginning in 1948, there were serious discussions indicating that natural gas would be brought to New England. In 1949 two transmission companies filed applications with the Federal Power Commission for authority to do so. We lost no time in rolling up our sleeves and getting to work. We established a task force to negotiate with the transmission companies and to participate in the FPC certificate proceedings. We engaged the services of Ebasco Services, Inc. to make a study of the potential requirements of the NEES gas companies, the information derived therefrom to be used in the FPC proceedings. Early [629] in 1950, we threw our support to the proposal of Tennessee Gas Transmission Company for the bringing of natural gas to our area, and in November of that year, the Federal Power Commission authorized Tennessee to

supply that half of the New England area which included all of our present companies except Norwood.

Parenthetically I might add that the certificate for Algonquin, the competing transmission line, was not issued till much later, Norwood did not get natural gas till late 1953.

Meanwhile, in this 1948 to 1951 period, we were increasingly concerned with the difficulties NEES was having in providing equity capital. We had been forced to cut our dividend on the NEES common in 1948 and the gas properties were contributing little if anything to our net earnings. This had an adverse effect on the market price of the NEES shares and on the price at which NEES could issue additional shares.

In 1949 NEES had to issue shares at \$10.50 per share. Our requirements were such that we knew additional shares would have to be issued early in the 1950's. A sale of the gas properties seemed clearly indicated from an economic standpoint. With the prospects of natural gas coming to the New England area we felt that we might obtain a fair price for the gas properties in relation to our [630] investment in them.

Another factor was the uncertainty stemming from the provisions in Section 11(b)(1) under the Public Utility Holding Company Act of 1935, namely, whether the NEES System would be permitted to retain its gas properties as then constituted along with its electric properties.

Accordingly, during 1950, we considered various ways of selling the gas properties and, shortly after the Federal Power Commission in November of 1950 authorized Tennessee Gas Transmission Company to bring natural gas to this area, we actively sought purchasers for the properties.

Q. Will you tell of your attempts to sell the gas properties? A. Early in 1951 we again asked Ebasco to study

the gas properties, this time with a view to developing a brochure for use with prospective purchasers.

In March 1951, we filed with this Commission for an exemption from the competitive bidding requirements, we agreeing to maintain competitive conditions through the invitation of proposals from interested purchasers. The attempts to sell were long and involved due to the many prospective purchasers with whom we talked and due to the complexities involved such as the gas properties in many cases being parts of joint gas and electric operations [631] within a single company.

Though we invited proposals from 32 persons or groups who had expressed interest, we received only three bids for all the gas properties and in October 1951 a contract was signed with the highest bidder, a group headed by Lehman Brothers and Bear, Stearns. This contract was conditioned on the arrangement by the purchasers of senior financing.

Q. Why was this sale not consummated? A. The purchasers were unable to arrange the senior financing and in February of 1952 we were formally advised of their inability to carry through the contract. Though hearings had been set before this Commission for February 5, 1952, they were never held.

Q. Had natural gas arrived in New England by February 1952? A. Yes. It had arrived at some of our Massachusetts properties but had not arrived at all of the eastern areas.

Q. Did the negotiations for sale and the contract for sale have any effect on the gas operations prior to and upon the arrival of natural gas? A. Yes. This period was a critical one in that natural gas was arriving, rates for the retail sale thereof were being established and policies were being set. However, during this critical period we were hamstrung. [632] We did not know whether the gas

properties would be ours, we didn't know how far purchasers would want us to go.

The prospective purchasers, even after the contract had been signed, were also hamstrung. They were not certain that the properties would become theirs and could not start the building up of their own staffs. Retail gas rates had to be set but they were not set as low as they might have been if a company knew it had the properties and were looking toward long range development. Current earnings were important to the consummation of a successful sale and financing.

Q. What was the situation when the sale to the group headed by Lehman Bros. and Bear, Stearns fell through in early 1952? A. As a result of the history which I have recounted, we suddenly found ourselves with natural gas already in New England, without promotional policies and staffs fully established and without retail rates set at promotional levels. It is no wonder that in 1952 our average Mef customer usage was below that of some of the other companies in Massachusetts.

Q. What happened when the sale of the gas properties fell through? A. We re-examined the status of the gas properties in the light of the new and radically changed circumstances. [633] It seemed to us that gas had a fair chance in the market and could be built up to pull its own weight as a part of the System. We, accordingly, decided that further attempts to sell the gas properties should be dropped and adopted a long range plan designed to fully develop and promote the natural gas business.

Q. What steps were then taken? A. On March 1, 1952, an independent gas division was established with separate management and sales promotional personnel and the job of developing the market potential of natural gas began. Gas operations were completely separated from electric

operations to the extent that it made good economic sense to do so.

In areas where substantial savings could be made by joint operations and where the competitive aspects between gas and electricity were absent, these joint operations were continued. The separation of gas and electric management was implemented by corporate separations where gas and electric service was provided by combination companies.

I should like to emphasize here under this arrangement gas management reports only to top System management and is and has been operating under instructions to develop the full potential of the gas market without regard for its effect on the electric business.

On the other hand, our electric managers are operating [634] in the same manner with respect to electricity and I am convinced that we are achieving the same degree of competition between gas and electric service that would exist if our present gas companies were independently owned.

This separation of gas and electric managements and the related separation of sales promotional activities while at the same time retaining all the advantages and savings which accrue through joint areas of operation where it makes good horse sense, seems to us to be an ideal combination and one from which the consumer derives substantial benefit. He is assured of adequate and continuing service whether he elects to purchase gas or electric service or both, at a cost which I am sure is below what he would be obliged to pay if the gas properties were severed from the System.

Furthermore, we feel that through this sensible method of operating our gas properties, we eliminate the evils that the Congress had in mind in this connection in designing Section 11(b)(1) of the Public Utility Holding Company Act, while we retain the obvious economic advantages

of joint operations where these little or no effect on the competition between gas and electric service.

The availability of natural gas and a competent separate gas management has produced results beyond our early [635] hopes. Gross operating revenues from present System gas companies in Massachusetts were about \$11,500,000 in 1951 and increased to over \$21,000,000 in 1959 or an increase of about 83 per cent. These same companies contributed about \$2,100,000 to NEES consolidated income in 1959 compared with only about \$250,000 in 1951.

These figures do not include Lynn which did not come into the System until June 1957 and did not become part of the Gas Division until the electric gas properties of Lynn were separated early this year. This achievement compares favorably with the record of other gas companies in New England. It is particularly impressive and significant in view of the handicap under which we started when natural gas reached New England, which I have already referred to.

Q. Since 1947 what changes have occurred in the System's gas property holdings? A. Small properties at some distance from the center of our gas properties have been sold and the Lynn Gas properties have been acquired. Various combination gas and electric companies have been separated into straight gas companies and straight electric companies. There have been some mergers and consolidations of gas companies.

Q. Why was this done? A. Our purpose was to achieve a single workable group of gas properties. Though disposing of the more distant [636] properties, we acquired the Lynn gas properties adjacent to our Mystic Valley and North Shore gas properties. We also sought to attain the economies of a unified gas operation and, to the extent this was not accomplished by mergers or consolidations, it

was done by the use of a centralized gas organization in lieu of larger staffs for each of the gas companies.

Q. You have stated various reasons explaining why NEES attempted to sell its gas properties in the early 1950's. Do these reasons still exist? A. No. For one, the difficulties in financing have been overcome. The market for the common shares of New England Electric System has substantially improved. Whereas in 1949 and 1952 we were able to sell additional common shares at prices of only $10\frac{1}{2}$ and $12\frac{5}{8}$ respectively, the average price on the New York Stock Exchange now runs somewhere around \$20 a share and we could expect to sell additional shares for a price of approximately \$20 a share.

The market price of NEES shares in the early 1950's reflected their unseasoned character—a situation that no longer exists. Though our business continues to expand and to demand financing, we do not now have the difficulty in equity financing that we did in the early 1950's.

In another area, the gas properties are now earning a fair return and contribute their share to NEES consolidated earnings.

[637] And we have now found in actual experience that these properties can be operated efficiently and independently as a separate division of our System at substantial savings and without either the gas business or the electric business hindering the other. As you can see, considerations bearing on the sale or retention of the gas properties, as part of the New England Electric System, are now materially different from those that existed in the early 1950's.

Q. I show you now an organization chart with the title "New England Electric System—Holding Company System—Functional Organization Chart—Electric and Gas Operations—March 1960" and ask if it was prepared under your supervision? A. Yes, it was.

Q. Does it accurately set forth the information it purports to show? A. It does.

Mr. Quarles: I offer it as Respondent's Exhibit No. 53.

Mr. Nowlin: No objection.

Hearing Examiner Newell: It is received.

(Respondent's Exhibit No. 53 was marked for identification and received in evidence.)

By Mr. Quarles:

[638] Q. Will you first tell us in general how this chart differs from the one received as respondent's Exhibit #22, in the previous hearings in 1957? A. There are two major differences, the first perhaps being more obvious than the second. The first difference is that the previous exhibit which you have just referred to omitted the gas companies as a part of the System organizational pattern.

The second significant difference is the treatment which this present exhibit gives to the functions of the New England Power Service Co.

Q. Why is the Service Co. treated differently in this exhibit than in the previous one? A. Prior to January 1, 1960, the New England Power Service Co. was rendering services for all companies in the NEES holding company system under a form of organization and method of operation approved by this Commission about twenty years ago. That was before the reorganization of the holding company system in 1947 and the System had yet to prove its integration from both a corporate and geographical point of view.

The approval of the Service Co operations in 1941 was based upon an entirely different set of facts than now prevail. For instance, at that time the System had 63 subsidiaries, five of which were sub-holding companies and [639] the minority interest situation was substantial and complex. In 1941 the holding company system was in the electric, the gas, the water, the steam, the trolley, the bu :

and the taxicab businesses. Today the System engaged in only the electric and gas businesses. The corporate and business simplifications have been accompanied by major streamlining of management along functional lines.

Were it not for the problems of historical development and the need for incorporation in the states served, the NEES properties could be economically and efficiently operated as a single corporation.

As I indicated previously in my testimony, we now approximate such single company operation through our integrated holding company setup in which Boston office personnel function for the benefit of the entire System and provide for all System companies the usual services expected from top management. New England Power Service Co. serves all of the units in the System with technical, financial, construction, managerial and other services at cost and consequently at less expense than these units could secure equivalent service if each of them attempted to maintain comparable personnel of their own. However, prior to 1960, NEPSCO was not authorized to render managerial services and accordingly our streamlining along functional lines had been hampered.

[640] By 1959, we had attained sufficient experience to clearly indicate that, in order to promote the efficient and economic operation of the System as a whole, there should be changes in the organization of the Service Co. and its method of conducting business. As a result, we filed with the S.E.C. in September 1959, a request for approval of modifications in the organization and conduct of business with respect to the New England Power Service Co.

Very briefly, our proposals were as follows:

(1) Officers and directors of the Service Co. to be selected regardless of interlocking positions between the Service Co., NEES and the System operating companies. In this connection all NEES officers would hold similar positions

in the Service Co., thus making possible the elimination of duplicate management personnel within the holding company system.

(2) All officers and employees of the Service Co., who would also be officers or employees of NEES, would be paid by the Service Co. Such payments would be then charged out to associated companies, including the Holding Company, benefitting from their services in accordance with the present cost allocation formula approved by the S.E.C.

The S.E.C. by order dated December 30, 1959 (File No. 37-7) approved in substance our proposals for a trial period [641] of eighteen months. In the meantime, we are to supply the Commission with periodic reports so that the effect of the changes may be studied and appraised.

The organization chart reflects these changes in that various Service Co. departments are shown reporting to an appropriate top executive who is in most cases an officer of NEES as well as of the Service Co.

Q. Will you now briefly describe the organization chart with particular reference to the gas companies? A. Reporting to the President and the Chairman of the Board are six top level executives whose titles to a large degree are self-explanatory. Bearing in mind that this is a functional chart of all System operations and does not reflect the responsibilities of the corporate officers to their respective boards of directors, I will point out the corporate affiliations of the top executives.

The Chairman, the President, and the Vice President and Treasurer, the Vice President and General Counsel, and the Vice Presidents for Management and Public Relations, all occupy similar positions both with New England Electric System and with New England Power Service Co. The Vice President, Electric Engineering and Operations, is a Vice President of New England Power Co. as well as of the Service Co. The Vice President for System Planning, is

concerned only with the electric side of the business and is a [642] Vice President of New England Power Co.

The functional boxes on the upper part of the chart shown as reporting in to the top Vice Presidents represent, with a few exceptions, the services performed by New England Power Service Co., and taken together with all of the top executives form what we refer to as the "Central Organization" or more simply as Boston Headquarters.

The lower part of the sheet starting about on a level with "Central Region Engineer" on the extreme left, represent the field operations which include field engineering (electric), electric production and transmission, retail treasury operations (both gas and electric), retail electric management, and finally, the management of the gas operations and companies. As you can see, these field operations are organized on a regional basis and the gas and electric managements are completely separated until they report in to the Vice President for Management.

Looking at the lower right hand part of the chart, you will see how the management of the gas operations fits in to the organizational structure. The President of the gas companies, four top assistants and their staffs as well as the eight gas companies, form what is referred to as the "Gas Division". This Division is responsible for all phases of gas operations except the treasury functions as will be fully described by others. The President of [643] the gas companies reports to the various boards of directors of the companies and also reports directly to the Vice President for Management.

At this point I might emphasize that ultimate responsibility for corporate activities rests with the respective boards of directors of each of the System companies. Administrative and managerial advice is supplied by Service Company officers only upon request of the respective companies.

Q. Would you say that this chart fully and completely describes the present organization of the New England Electric System holding company system? A. Not at all. As I testified in the electric part of this case in November 1957, you have to realize that we do not have here any rigid military organization. Any chart is but a convenience, an over-simplified approximation.

I was impressed by what Mr. Clarence B. Randall, former president of Inland Steel Co., said recently about organization charts. He said, and I quote, "Warm human relationships must not be put into cold storage. Situations that are essentially fluid must not be frozen. The wise management man will remember that the organization chart is a useful scaffold with which to build a house but still know that it is not the house."

[644] I concur in these statements and they certainly apply to our organization.

The Chart, while useful from a functional point of view, simply cannot show the myriad cross currents and lines of cooperation, communication and consultation which exist and which contribute in no small way to an efficient and effective organization. While these countless lines cannot as a practical matter be shown on the chart, they will become apparent as our testimony develops.

For example, while gas and electric management is completely independent and separated until the top of the functional organization is reached there are many instances of cooperation and consultation between the two to mutual advantage. These instances would include problems in public relations, relations with municipal and local authorities, local tax and assessment problems, pooling and manpower, equipment and materials in times of emergencies or disasters, joint use of facilities for economy reasons, personnel and labor problems and many others.

A concrete case in point occurred last year when two of

the older, less efficient System steam plants were shut down permanently. Most of the employees who became available could be absorbed in electric operations elsewhere on the System. By negotiations between gas management and electric management, some of these people came over into [645] gas operations where, because of their System training and background, they quickly and capably fitted into vacancies in the gas organization.

The reverse of this situation occurred when our gas production plants were converted to a peak shaving and standby status when natural gas became available.

Q. Will you now describe in general terms how the Gas Division functions under the Central Organization? A. In my testimony in November 1957 on the electric portion of this case, I outlined in some detail how the various retail electric companies operate with respect to the "Central Organization". In broad terms and in many specific functional areas this description would be essentially true as to gas operations.

However, although the Gas Division has strong ties to the "Central Organization" and relies on it for the broad policy guidance expected of top management and for most of the other services which are offered through the Service Company, there are some major differences. These differences come about partly because of the basic differences in the technical and practical aspects of the production and distribution of gas and electricity and partly because of our policy of promoting unrestricted competition between gas service and electric service for the available market.

[646] Let us look at the electric side of the business for a moment. The two top vice presidents at the left of the organization chart are primarily concerned with electric operations. The Vice President, System Planning is entirely electric while the Vice President, Electric Engineering

and Operations is concerned exclusively with the electric operations except for the purchasing function which he supervises for both electric and gas operations and for minor engineering and construction services which are needed by gas management from time to time.

There are compelling reasons why electric planning, production, transmission and distribution must be conducted on an over-all system basis. The reasons were explained by Mr. Brandt in his testimony in the electric portion of this case and include the advantages of larger generating units, economic balance between steam and hydro generation, interconnections with our systems and other reasons almost equally important. These factors transcend corporate boundaries and all electric companies benefit as a result of the direction and coordination of these activities at the system level.

Comparable gas activities are coordinated at the Gas Division level. Problems involving gas purchases from pipeline companies, production of gas for peak shaving and standby purposes, storage and distribution of gas and [647] all of the engineering problems connected with these functions have many practical and economic differences from their electric counterparts and should be and are handled directly by a gas management devoting its full time and attention to them. But the Central Organization does provide the basic policy framework, the broad managerial guidance and know-how within which the Gas Division operates.

Treasury activities shown functionally on the organization chart under the Vice President and Treasurer, can be more fully explained by Mr. Hanson. It is enough for me to say that all treasury operations from the top to the bottom of the chart are essentially the same for gas operations as for electric operations. At the top, financing is

planned and carried out on a system basis for the holding company and its electric gas subsidiaries.

All of the technical services available through the Service Company in the treasury and accounting areas are equally available and equally necessary to both electric and gas subsidiaries. You will also notice that at the field level on the chart starting with the block "Central Region Treasury Representative," in all regions where there are both gas and electric companies, the treasury and accounting function is completely integrated.

The Vice President for Management is primarily concerned with retail management. The President of the gas [648] companies as well as the retail electric managers report to him. Various Service Company departments also report to him; Electric Sales Promotion, Rates, Labor and Personnel Relations, etc. Only two of these have no connection with gas operations and these are (1) Electric Sales Promotion and (2) Distribution Coordination.

Gas Sales Promotion is the responsibility of the President of the gas companies with the assistance of his Sales Promotion Manager and staff and the Service Company offers no services and has no connection with this area of gas operations.

The second function under the Vice President, Management which has no connection with gas, is a temporary arrangement during a transitional period of gradually transferring the technical responsibility for the day to day operation and maintenance of electric distribution facilities from local management to the field superintendents under the Electric Engineering and Operations Vice President.

At the extreme top right of the organization chart are the Vice President, Public Relations and the Vice President and General Counsel. They and the Service Company func-

tions under their direction are available for advice and services to both the electric and gas organizations.

Q. How are the differences between electric and gas managements [649] resolved? A. I can recall no instances of major conflicts since we established the Gas Division.

Minor differences between electric and gas managements occasionally arise at the local level and this is only an indicator of the high degree of competition that exists between the two. These differences are usually settled on a fair give and take basis and if on rare occasions a decision at the top level is necessary, it is made on the merits of the particular case.

Because we firmly believe that maximum competition is best for both the System and its customers, we require the Gas Division to justify any proposed policies and plans, estimates and expenditures on the basis of necessity, reasonableness and the economics of each situation as it applies strictly to the gas business. The electric companies are under similar ground rules as applied to the electric business.

Q. I now show you three tabulations: the first is entitled "New England Electric System and New England Power Service Co.—Officers and Directors at April 1, 1960"; the second is entitled "New England Electric System—Officers and Directors of Electric Subsidiaries at April 1, 1960"; and the third is entitled "New England Electric System—Officers and Directors of Gas Subsidiaries [650] at April 1, 1960." Were these prepared under your supervision?

A. Yes, they were.

Q. Will you briefly tell us what these tabulations show?

A. They are largely self-explanatory. The first tabulation lists all of the officers and directors of New England Electric System and the New England Power Service Co. and shows that NEES officers now hold similar positions with the Service Co.

The second tabulation shows the principal officers and all of the directors of the NEES electric subsidiaries. It also shows which of the directors are System employees and those which are not.

The third table shows similar information with respect to the gas subsidiaries of NEES.

Q. Do these tabulations accurately set forth the information they purpose to show? A. They do.

Mr. Quarles: I will offer them as Respondent's Exhibits numbered respectively 54, 55, and 56.

Mr. Nowlin: No objection.

Hearing Examiner Ewells: Received.

(Respondent's Exhibits Nos. 54, 55, and 56 were marked for identification and received in evidence.)

[651] Q. I next show you a tabulation entitled "Comparative Data for 25 Large Combination Gas and Electric Utilities and Systems for the year 1958 Arranged in Accordance with Their Gas Operating Revenues" and ask you to describe it. A. This shows numbers of customers, operating revenues and square miles of service area where available, for both gas and electric operations of the companies indicated. The source of the information is indicated at the bottom of the table.

Comparing the NEES system gas operation with the other companies on the tabulation it can be seen that by any one of the three criteria, NEES ranks well down on the list in size.

Of the 25 companies or systems, NEES stands 12th in number of gas customers, and 15th in gas operating revenues.

Comparing gas service areas where it is possible to do so, eight of thirteen companies reporting gas service areas have larger service areas than the NEES gas companies.

In this comparison I am using for NEES, the 661 square miles shown at the bottom of the sheet as this reflects the

sale of our Rhode Island and Connecticut gas properties which took place in 1959. It is obvious from looking at the numbers of customers and combined [651-A] service areas of the companies which do not report gas service areas separately, that there are at least five or six more companies which outrank NEES from the standpoint of size of gas service area.

I would also point out that most of these utilities listed, operate within a single state and that our next door neighbors, the New England Gas and Electric Association which operates entirely within Massachusetts, has a gas service area which is larger than that of the NEES gas companies.

Q. Was this tabulation prepared under your supervision?

A. Yes, it was.

Q. And does it accurately set forth the information it purports to show? A. It does.

Mr. Quarles: I offer it as Respondent's Exhibit No. 57.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It may be received.

(Respondent's Exhibit No. 57 was marked for identification and received in evidence.)

Mr. Nowlin: May I ask one question, Mr. Webster. This Exhibit No. 57, there are no registered holding companies [652] on that exhibit, except New England Electric System, are there?

The Witness: Not that I know of.

By Mr. Quarles:

Q. Does the gas business in New England have any important characteristics distinguishing it from the gas business in other parts of the country? A. There are some differences but I would say that the most important is the high cost of natural gas from the transmission companies.

We are at the "end of the line" in New England and our pipeline cost of natural gas is the highest of any area in the country.

Furthermore, the geologists tell us that there is little hope of finding a suitable geological formation for the underground storage of gas to improve our load factors on the pipeline companies and presently available peak shaving processes are expensive. The high cost of natural gas has an adverse effect on our competitive situation with other fuels particularly with respect to space heating.

In the area served by the NEES gas companies, #2 oil is our chief competitor for home heating. Our present rates are currently just about on a par competitively with #2 oil. As the present domestic market for increased gas sales is space heating, any further increases in costs of [653] any nature would be serious. This is not true in other sections of the country where gas has a distinct competitive advantage over other fuels for heating.

Q. Mr. Webster, Mr. Nowlin has just called my attention to the Middle South Utilities Incorporated appearing near the bottom of the tabulation, Exhibit No. 57. In order to make sure there is not a mistake in the record, is it not a registered holding company under the Act? A. Of course, it is, and I failed to see it when I answered not that I know of.

Q. Have there been increases in the cost of pipeline gas to New England gas companies since the introduction of natural gas? A. Yes, there have been several, the most recent of which became effective April 6, 1960 to all companies purchasing gas from Tennessee Gas Transmission Co.

As a result of proceedings before the Massachusetts Department of Public Utilities, we have been permitted to escalate our rates to substantially compensate for these increases but as I have said, we are up against competitive ceilings on our rates.

In addition to this increase these seven NEES companies no longer have available to them the Peak Shaving Rate

which Tennessee had offered under a temporary authorization of the Federal Power Commission. This rate was finally disapproved by the FPC so that our companies, beginning [654] with the winter of 1959-1960, have had to substitute manufactured gas for peak shaving at a greater cost than the 90 cents per MCF rate of Tennessee.

Q. What are some of the other distinguishing characteristics of the gas business in New England which might be typical of the NEES gas properties? A. First of all, the heating season is longer and more severe in New England than in most areas of the United States. This has an important bearing on the consumption of fuels for heating purposes and if gas becomes more expensive than other fuels, the total dollar effect on the consumer using gas is much greater. This certainly would limit the market for gas space heating and would tend also to limit or discourage the use of gas for other domestic purposes.

Secondly, the gas companies in New England are adding new customers at a slower rate than in most sections of the U.S. New England is a mature area and it is inevitable in a rapidly expanding country that the younger sections should grow more rapidly than an area that was settled over 300 years ago.

Also, it is true that because natural gas became available much later in New England than in most other areas, competing fuels became firmly entrenched, and consequently it is more difficult to displace them. This ties [655] back also to what I said a few moments ago with respect to the competitive price situation. With pipeline gas costing what it does and with little or no price advantage over competing fuels the problem becomes more difficult.

Q. Does all this suggest to you that the future of the gas business in New England is doomed? A. Not at all. There is definitely a major place for gas even out here at the end of the pipeline. But it will require careful manage-

ment and taking advantage of every possible economy to realize its full potential.

Q. Will you now tell us in general what extent the gas subsidiaries of NEES are subject to regulation?
 A. As I stated earlier, all of these companies are located in Massachusetts and thereby subject as to rates, form of accounts, security issues, mergers, relation with affiliates and many other matters to the jurisdiction of the Massachusetts Department of Public Utilities. The Department has a staff of experts on matters involving the gas as well as the electric business and has the right to initiate investigations of these companies on matters within their jurisdiction. These gas companies are not subject to the jurisdiction of the Federal Power Commission but the rates under which they purchase natural gas from the pipeline companies are so subject.

Q. Is the regulation of NEES gas companies by the [656] Massachusetts Department of Public Utilities hampered or made less effective in any way by their affiliation with the NEES system? A. Without presuming to speak for the Department, I am sure that it is just the opposite. Certainly, their being subsidiaries of registered holding company does not affect the authority or power of the Department over them. In actual administration it appears affirmatively helpful. While certain formal aspects of regulation must be conducted on a company by company basis as for example rate proceedings, there are many formal and informal contacts required, which involve problems that can be settled by a single letter phone call.

For example, a question involving the applications or complaints can be answered for all the companies by a call or letter to the Rate Engineer of the New England Power Service Company. Questions involving the pipeline to the Gas Division companies or gas supply can be referred to the Gas Division offices in Malden instead of to each company. This

latter would also be true of production, distribution or utilization problems. Questions concerning plant accounting, financing or other treasury and accounting matters can be referred to our Boston office for all companies instead of contacting each individual gas company.

Q. Turning now to another subject, have you had studies [657] made which show the loss of economies which would result if the NEES gas companies were assumed to be separated from the System? A. Yes, we have.

Q. Were these studies made by your own organization or by outside professionals? A. Both. In the spring of 1959 we engaged Ebasco Services, Inc. of 2 Rector Street, New York City, to make such studies and at the same time directed our own organization to make such studies—the two groups to work together in the gathering of material.

Q. Why did you engage the services of an outside firm for this job? A. We felt that while our own people were perfectly competent to make such a study it would be advisable also to have a completely independent judgment and to have a check made on our own conclusions. Furthermore, we were influenced in this decision by the thought that this Commission understandably might want the opinion of outside experts rather than have to rely solely on the opinion and estimates of our own System people.

Q. Why was Ebasco selected? A. Ebasco Services as a firm has had a long and varied experience in the fields of public utility management and consulting services to utilities. The firm has an excellent [658] national reputation and it is staffed with competent, well trained men with actual operating experience who are acknowledged experts in their respective areas of public utility management, engineering and operations.

Q. Will you generally describe for us the manner in which these severance studies were made? A. The basic material needed by both groups was substantially identical and so

it was developed cooperatively at the working level. Then System people and Ebasco worked along parallel lines in some areas of the studies and worked in collaboration in others as data was analyzed and ideas and estimates compared. At the same time, we agreed that System personnel and Ebasco personnel should, independently of each other, be in a position to draw conclusion and pass judgments as to the effects of severance on the basis of the studies.

Q. How did this arrangement work out? A. Extremely well. Not only was this the most practical and economical way to make a complicated study of this kind but I am sure that the methods used and the manner in which it was made insured the reliability of the estimates.

Q. Will you describe, generally, what Ebasco was asked to do? A. Ebasco Services was asked to determine the loss of economies which would occur as a result of severance of the [659] gas business from the NEES System. In making this study, Ebasco was asked to show the effect of severance not only on the gas subsidiaries but also on the electric subsidiaries and on the Service Company. They were also asked to take into consideration not only the disadvantages of severance but also to determine any advantages that might accrue to the gas business and to the electric business through separate ownership and operation.

Hearing Examiner Ewell: We will take a short recess.

(Whereupon, a short recess was taken, after which the hearing was resumed.)

By Mr. Quarles:

Q. What, in broad terms, was the scope of the Ebasco severance studies? A. The scope was to include a complete review of the existing corporate structure, organization and operations of the NEES system. Both Ebasco and we were aware that this was necessary in order to determine all of the effects of severance, both tangible and intangible. The scope, of course, included detailed analysis

of all functions and parts of the System where joint operations as between the gas and electric businesses were involved.

Q. It is obvious that certain assumptions were necessary in order to study the effects of severance. Will you tell us [660] about some of these assumptions? A. There were many minor assumptions which will be set forth in the report itself. One particular assumption I might mention was that the companies upon separation would pursue similar sales and service policies and would not unduly reduce existing high standards of service. Another assumption was that if the gas companies were to be separated from the NEES system, each would be operated as an independent and separate corporate entity.

Q. Why did you assume separate rather than joint or combined operation? A. In the first place, it seemed the most logical and reasonable course. If the gas assets of NEES were to be sold, they would be disposed of in the manner most feasible at the time and in a manner which we hope would prove to be the most advantageous for the System. We have no way of knowing at this point just how this might occur. It could happen in a variety of ways and in various combinations.

I should expect that if the stock of the gas companies were to be sold by NEES, the proceeds would be utilized by NEES for investment in common stocks of its electric subsidiaries. Therefore, it might be more advantageous for NEES to sell its investment in the gas companies over a period of time and thereby minimize the [661] effect on NEES earnings.

On the other hand, if NEES were to sell the common stocks of the gas companies to NEES shareholders through a rights offering each gas company would have over 80,000 stockholders, no one of whom would own over five percent of the stock. Under these conditions there would, in effect,

still be eight separate companies and what would happen after that is a matter of pure conjecture.

Finally, it appears to us that there may well be local people or other investors who might be more interested in one or two of our gas companies than as a package of eight.

In a word, it seemed to us that the only safe assumption, the only one on which we would be on firm ground, was that if severed the gas companies would be separately operated.

Q. Did you not explore any other possibilities? A. Yes, we did. For reasons I have already given, the basic studies were made on the assumption of separate operation but we realized, of course, that there were other assumptions which could be made. So many, in fact, that if all were analyzed in depth we could never finish the job. It then seemed to us that one alternative could well be studied in order to get some measure of the maximum range of loss of economies which might be salvaged under other conditions. We, therefore, decided to explore the extent [662] to which severance losses might be reduced, if some way could be found to operate all of the gas companies in conjunction with one another; and we had both our own organization and Ebaseco extend their studies to cover that basis also.

Q. Now, Mr. Webster, can you see any useful purpose which would be served by severing the gas companies from the NEES System? A. My answer to that question is an unqualified no, whether considered from the System standpoint or viewed in the light of the public and consumer interest. As I indicated, earlier in my testimony, we have spent much thought, time and effort in developing a pattern of management which permits both our gas and electric businesses to operate independently in the competitive areas as well as in areas where there are no economies from joint operation. At the same time, we are taking

advantage of every possible economy through joint use of facilities and personnel where our experienced judgment and just plain common sense tells us that this is the thing to do. In view of all of the obvious advantages of this type of operation to the consumers and to the companies, it is clear to me that there is no valid reason for severance.

Through painstaking effort over the years, we have reached the stage in the development of our functional organization where we achieve most of the economies of integration enjoyed by a single corporation. This, it seems [663] to me, is reflected in the System functional organization chart which I explained earlier.

While the gas business and the electric business each function largely independently in certain areas, there are many, many operating problems common to both. Each benefits from affiliation with the other and this, in turn, makes for a stronger system. In my opinion, as a practical matter, all of our electric companies and all of our gas companies taken together constitute an "integrated system" in operations whether or not this is technically so under the Holding Company Act. The SEC has cleared the electric part of our business as an integrated system under the Act, and we confidently expect it will now similarly remove any remaining doubts concerning the retention of the gas part.

Q. Mr. Webster, to clear a slight ambiguity, may I ask you to refer back to Exhibit No. 51, which shows the New England Electric System Gas Companies, and look particularly at the transmission lines, starting in the lower left hand corner, crossing the Algonquin transmission line and then the Tennessee transmission line, and ending at the Connecticut River, opposite Springfield. Could you tell us which of the systems own that line? A. That line is owned by the Tennessee Gas Transmission Company.

Q. And there is, at the junction with the Algonquin [664]

a circle marked with interconnection indicating that at that point there is a possible exchange or interconnection between the two lines? A. That is right.

Mr. Quarles: Mr. Examiner, I would like, if I may to have Mr. Webster excused at this time, subject to recall when we reach a later stage in the development of our case.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: All right. I am sure there is no objection to that.

Thank you, Mr. Webster.

(Witness excused.)

[665] Mr. Quarles: As our next witness I would like to call Mr. Robert S. Quig.

Hearing Examiner Ewell: Has Mr. Quig previously testified.

Mr. Quarles: He has not.

Whereupon,

ROBERT S. QUIG

was called as a witness for and on behalf of the respondents and having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Quarles:

Q. What is your name and residence? A. My name is Robert S. Quig and I reside at 24 Dartmouth Road, West Orange, New Jersey.

Q. Would you state your business connection at the present time. A. I am Coordinator of the Management Consulting Division of Ebasco Services Incorporated, 2 Rector Street, New York (6), New York.

Q. Please describe your educational background. A. I received a Bachelor of Science degree in Civil Engineering from Iowa State College, Ames, Iowa, in 1927, and a Mas-

ter of Business Administration from Harvard University Graduate School of Business in 1930.

[666] Q. Will you state your business experience? A. From June of 1927 to June of 1928, I was employed by E. I. duPont de Nemours Company, Inc., as a Junior Production Engineer in the Old Hickory Tennessee Rayon Works. During the summer of 1929 I was employed by New Jersey Bell Telephone Company in Budget Planning work. Upon graduation from the Business School at Harvard, I was employed by the Electric Bond and Share Company, parent of my present employer, Ebasco Services Incorporated, as an assistant Rate Engineer. Progressively, I have been a Rate Research Engineer, a Consultant on Rate and Pricing matters of concern to all types of utilities, Assistant Manager, then Manager of the Rate Department of Ebasco Services Incorporated.

At present I am Coordinator-Management Consulting Division of Ebasco. My responsibilities are to direct the activities of consulting and technical personnel of the Management Consulting Division in the following areas:

Accounting and Management Control

Business Management and Financial Facilities

Community and Industrial Planning

Industrial Relations

Sales, Marketing and Public Relations

Valuation and Appraisal

In addition, I coordinate matters involving personnel of my own Division and personnel drawn from other Ebasco Divisions in the performance of assignments [667] necessitating the formulation of a team or a "task force" to meet the specific requirements of individual clients.

Q. Mr. Quig, has your experience in the past 30 years been mostly concerned with the operating problems of utility companies? A. Yes, it has. During these 30 years I have been extensively engaged in consultation work with

the management of many utilities in this country and abroad on matters involving rate, pricing, marketing and operating problems of manufactured and natural gas, electric, steam, water and transit companies. Included in this work has been preparation of data for formal and informal appearances before Federal, State and Municipal Regulatory organizations.

Q. Will you state some of your formal appearances? A. I have appeared before the Federal Power Commission in the matters of Panhandle Eastern Pipeline Company, Dockets 1116, et al., before the Rhode Island Department of Business Regulations for the Narragansett Electric Company, before the Oregon Public Utilities Commissioner for Northwest Natural Gas Company, before the Board of Water and Power Commissioners and City Council of the city of Los Angeles, California for the Los Angeles Department of Water and Power.

Q. In your duties have you worked closely with the electric and gas utility industries in general? A. Yes, I have. I am a member of the American Gas Association's Rate Committee; of the Edison Electric [668] Institute's Rate Research Committee; and of the Load Research Committee of the Association of Edison Illuminating Companies. I have frequently been asked to speak before various association groups, engineering societies and security analysis groups on subjects related to my field of experience.

Q. Mr. Quig, will you tell us something about Ebasco Services, Incorporated? A. Ebasco provides management consulting, engineering and construction services to public utility, industrial, financial and other enterprises.

Ebasco Services Incorporated is a wholly owned subsidiary of the Electric Bond and Share Company.

The Electric Bond and Share has been in business for over 50 years, and had assets totaling \$128 million on December 31, 1958. As many know, it was formed in 1905

by General Electric Company which had accumulated securities of many small electric utility companies obtained in payment for equipment. Some of these utilities were in difficulties mainly because of inexperience and lack of qualified technical personnel. To correct this situation and salvage some of the companies, General Electric formed a professional organization called Electric Bond and Share Company.

At the outset Bond and Share formed a group of engineering, construction, and other experts to assist in the growth and the development of utility companies in which it had investments. That group, which consisted of [669] the operating departments of the Electric Bond and Share Company, became a separate organization known as Ebasco Services Incorporated in 1935.

Over the years, Ebasco and its parent have played a vital part in the development of one of the largest systems of public utility companies in the United States with properties at the then time located in 32 of the 48 states.

Ebasco and its parent also pioneered in the natural gas field. It assisted in the formation of what is now known as the United Gas System and its subsidiaries, now one of the largest natural gas systems in the world, through the integration of more than 40 companies engaged in various phases of the natural gas business. Ebasco has been engaged in many and diverse assignments for a number of gas operating utilities and pipeline companies throughout the United States and Canada.

Until 1942, all of Ebasco's services were performed for companies associated with Electric Bond and Share Company. In that year the services were offered for the first time to industry in general. In the past 18 years Ebasco has expanded and diversified greatly with the increased needs for engineering, construction and management con-

sulting services. Its greatest growth has taken place since 1942.

Q. Will you describe generally the organization and size of Ebasco? A. Ebasco maintains a general office staff of approximately 1500. Included here is a pool of talent whose background and experience enable them to deal with managerial, operating, financial, engineering and construction problems of its clients. Ebasco follows the technique of bringing to bear on any job the abilities of particular experts for such time as the assignment may require.

Ebasco's experience has been gained through day-to-day contact with the problems of a large number of companies, varying in size and physical characteristics and located in all parts of this country, as well as in many foreign countries.

Q. Will you describe generally the background and experience of Ebasco top officers and department heads having prime responsibility for the performance of its work? A. The President of Ebasco, Mr. Fred. C. Gardiner, has been with Ebasco or its parent system since 1917, or 43 years.

Mr. K. W. Reece, the Executive Vice President, has been with Ebasco over 33 years.

Mr. E. P. Noppel, Vice President and General Consultant on Gas Operations, has been with Ebasco over 35 years.

Mr. H. H. Scaff, Vice President, Management Consulting Division, has been with Ebasco over 35 years.

[670] The various Department Heads having performance responsibility for the manpower on this study made in connection with this proceeding have been associated with Ebasco fifteen years at a minimum, with some having 30 to 35 years' experience.

All of these officers and Department Heads have had

years of "on the job" experience and responsibility for the performance of personnel under their charge.

Q. Will you describe briefly the nature and scope of Ebasco's assignments including gas operating utilities?

A. In the past 15 years Ebasco has performed a variety of assignments for about 100 gas companies. These assignments have covered many areas. I will cite a few as examples: Severance studies for utilities, the Jersey Central Power and Light Company, Economic Studies on Gas Distribution matters on the properties of Louisiana Power and Light Company, Arkansas Power and Light Company, Mississippi Power and Light Company, Market Studies for companies such as Bridgeport Gas Company, Chattanooga Gas Company, Northwest Natural Gas Company (Portland, Oregon), Carolina Natural Gas Corporation; Accounting and Management control studies for companies such as the Southern Union Gas Company, the Inter-Mountain Gas Company, Bridgeport Gas Company, United Gas Corporation, Operating Division, the Providence Gas Company; Engineering and Operation studies [671] for such companies as the Central Utah Gas Company, Chattanooga Gas Company, Elizabethtown Consolidated Gas Company, Newport Gas Light Company, Greenwich Gas Company. Rate studies for companies such as Boston Gas Company, Iowa Public Service Company, Nashville Gas Company, Inland Natural Gas Limited, United Natural Gas Company, Pennsylvania Gas Company, Iroquois Gas Corporation, Buffalo-Hartford Gas Company; Insurance requirements studies for many of these companies that I have just mentioned and many others.

In addition, Ebasco has performed a wide range of services for numerous Natural Gas Pipeline companies, among others the Panhandle Eastern Pipeline Company, El Paso Natural Gas Company, Texas Eastern Transmis-

sion Corporation, West Coast Transmission Limited, Inland Natural Gas Company, Ltd., South Georgia Natural Gas Company, South Carolina Mutual Gas Company. There have been numerous other assignments covering a wide range of service for many other companies, both large and small.

Q. Mr. Quig, in what capacity did Ebasco make the study in this case? A. Entirely on an independent, professional capacity. In doing this work we have sought to bring to the problems of severance of these Gas Companies and independent and objective point of view.

Q. You have heard Mr. Webster's description of what [672] Ebasco was asked to do in connection with this proceeding. Is it an accurate description of Ebasco's understanding of the assignment? A. Yes, sir.

Q. Did Ebasco carry out this respect? A. It did, sir.

Q. What did you use as the test year for this study? A. The year 1958, the latest fiscal year for which audited figures were then available.

Q. Was 1958 a reasonably typical year? A. Yes, sir.

Q. Will you explain why? A. The country was not at war nor were there any drastic internal disorders. The economy of the country and of New England was fairly healthy without any serious wide-spread depression existing. Some population growth was continuing in most of the gas service areas and some small and medium industries continued to move in. Weatherwise, the Degree Day Deficiencies experienced on a Billing Period basis were within 2 percent of those of a normal year.

Q. How did Ebasco handle this assignment? A. Ebasco organized a "team" or "task force" comprised of individuals with practical experience in particular fields to carry out this assignment. From time to time, as the need became apparent, additional personnel were assigned to

[673] this group, and the resources of Ebasco as an organization were available and were used.

I was in general charge. Other Ebasco personnel who were principal participants in the study and the fields of operation that they covered were: James F. Simes, General Gas Consultant, who covered operations and staffing generally, and New England Power Service Company; Thomas J. Johnson, Jr., Assistant Manager of Ebasco's Accounting and Management Control Department, who studied the Treasury and Accounting areas; C. William Pearson, Senior Insurance Consultant, on Insurance requirements; and R. H. Cahal, Jr., Senior Marketing Consultant, on New Business Planning and Operations.

In addition to my general responsibility for the study as a whole, I gave special attention to the problems of competitive economics in the New England area as they relate to the problems of gas severance.

Q. Will you describe generally how the Ebasco people went about carrying out this assignment? A. It was necessary, of course, to first become familiar with the manner in which these companies were being operated before gauging the effect of severance. Therefore, each Ebasco consultant met with those NEES and NEPSCO officials whose areas of responsibility covered the field to which the Ebasco representative was principally assigned. It was also necessary to meet with operating company [674] officers and department heads, and confer on matters relating to administration, production, operation, accounting, rates, sales and in other significant areas. Ebasco consultants met with responsible personnel in the categories I have mentioned in each of the gas companies and the respective electric companies where joint activities were conducted. They also spent considerable time at the offices and other locations concerned with their area of responsibility. The

purpose of this was to check data supplied to us and to obtain a first-hand knowledge of operations.

Q. What type of information did Ebasco call for on the operations of the NEES companies? A. Ebasco asked for both electric and gas operations analyses of payrolls and data concerning personnel, customers, billings, work loads, equipment, buildings and such other things as service orders handled at service order centers and various similar items. We asked for detailed descriptions of each organization's operations, including organization charts, detail of insurance and employee benefit programs, labor contracts and other personnel functions including pay policies. We asked for and analyzed operating estimates, construction programs and capital programs. The listing I have given is really only by way of example. In the nature of a study like this you end up reviewing enormous quantities of materials.

[675] Q. Did Ebasco ask for any data that would permit comparisons to be made with other companies? A. Yes, we did. We asked for abstracts of the Department of Public Utilities of the Commonwealth reports of other companies so that we would have available data on executive salary levels, unit costs of operation, number of employees, customer sales and similar information.

Q. Were discussions confined to people of the NEES Systems? A. No, sir, they were not. Discussions were not confined to system personnel, but included outsiders where appropriate, such as insurance brokers and realtors. For example, Mr. Pearson, of Ebasco's Insurance Department, made a thorough study of the present insurance coverage of System companies to determine its adequacy and the reasonableness of its cost. He then determined the insurance needs of the new companies and as part of this determination he met with insurance brokers, agents

and companies to discuss these needs and to secure from them an estimate of the costs of such programs.

Of course, in all phases, we drew upon the accumulated experience of the Ebasco organization and its personnel both to provide information as well as to test the reasonableness of tentative conclusions as we went along.

Q. You have told us in general terms how you have studied the system as now constituted. Since I expect to [676] call several witnesses who studied particular areas, I will leave to them a more detailed statement of what they did on this. Will you now tell us, again in general terms, how you approached the problems of severance?

A. In each area, we considered the effect that severance of the gas business would have on the gas companies and also the effect that much severance would have on the electric companies.

We started with the organization of a new top management team, and the determination of compensation that would have to be provided. We considered the arrangements for gas supply and the details of these contracts, the most effective policies for New Business and Merchandising, the most desirable arrangements for performing the billing, collecting, accounting and purchasing functions. We studied the provisions of the labor contracts. We looked into the space requirements of the to-be independent company and finally evaluated the effect the changes caused by severance would have on income and expenses. We considered that now management would probably call in experts on certain phases of the Company's operations to aid in organizing functions that had not previously been performed independently.

Plans were laid out for efficient operation of each company in each necessary area of operation if the company were to be severed and to be forced to operate [677] independently.

Plans were laid out for efficient operation of each company in each necessary area of operation if the company were to be severed and to be forced to operate independently. The problems with respect to the electric companies were fewer but essentially the same approach was used, keeping in mind, of course, that these companies would have the continued use of services from NEPSCO.

Q. Will you describe the relative roles of the Ebasco team and the NEES personnel in the making of this study?

A. We, Ebasco, take full responsibility for the conclusions which our studies have led us to. However, it would have been impossible to have done this work without the close cooperation of NEES personnel. As I have described, we called on NEES personnel for a great volume of detailed material over a considerable length of time. We met with them repeatedly and at length, asked questions, reviewed the material they had prepared, including their estimates as to the effects of severance, and throughout the whole period of our study tested our conclusions by discussions with them. In this sense the study represents a joint project in which we all participated.

Q. Were there differences of opinion concerning the effect of severance and the type of organization which would be required upon severance, and if so how were these [678] reconciled? A. Inevitably in a job of this scope where judgment plays such an important part, different people will start with different ideas. In the end the Ebasco report embodied Ebasco's judgment. We were, of course, vitally interested in the views and judgments of the NEES people. As a practical matter I cannot recall any significant area where, when we and the NEES people had explored the problem in depth and had done such further research and analysis as the area of disagreement required, that we did not find ourselves in general agreement on what appears in our report. The conclu-

sions which were reached represented Ebasco's own best judgment. I will leave it to the NEES witnesses to state whether they also represent theirs.

Q. How did Ebasco present the result of their study to NEES? A. Ebasco prepared a report with sections devoted to each of the eight gas companies affected by severance as well as five companion electric companies where various activities were conducted on a joint basis. Other sections deal with the NEPSCO organization, and the effect on the remaining electric companies.

Proceeding these sections of the report devoted to the separate entities of NEES is an introductory section stating the scope and purpose of the assignment, with a brief [679] description of various components of the NEES organization. As a matter of convenience, we have bound in the very front of the report a copy of Ebasco's letter of transmittal of the report to the NEES officials.

Q. Does this report represent the considered and firm judgment of Ebasco as an organization? A. Yes, sir, it does. Of course, it should be borne in mind that the report does not purport to express final opinions or ultimate conclusions. It is rather a working document in connection with detailed testimony which will be given in this proceeding. I have described generally the method for the staffing of this work and the preparation of the report.

As I have stated, experts in various relevant fields made the studies embodied in the report drawing upon their own study in this case and their background and general knowledge and experience as well as upon the Ebasco organization generally. I participated throughout the study and in the preparation of the report and have reviewed it in detail. I am familiar with the qualifications of the individuals who worked on the project and have sufficiently tested the results of so much of their work in which I did not directly participate so that I feel confident in standing

behind the report and stating our conclusions based on the work it embodies. Furthermore, as I have earlier stated, [680] we have reviewed this project with senior officers and others in our organization to further test and substantiate our conclusions.

On this basis I have no hesitation in stating that the projections set forth in this report represent the firm and considered judgment of myself and the individuals who participated in its preparation. In addition, Ebasco as a firm supports the judgments of its people who were engaged in this study.

Mr. Quarles: Mr. Hearing Officer, I propose, in due course, to offer this report as an exhibit. I would like, if I may, to have it marked for identification at this time as Respondent's Exhibit No. 58.

Hearing Examiner Ewell: I note it is in two volumes. Do you want to mark them A and B?

Mr. Quarles: It might be convenient. The two volumes are numbered consecutively, the pages of volume two continuing the numbering from volume one, but perhaps it would be convenient to have them separately labelled.

Mr. Nowlin: Will this be 58-A and 58-B?

Mr. Quarles: Yes.

Mr. Examiner, with reference to the marking of this exhibit, since it is considered one total work, even though we label it as A and B, I would hope that we can refer to it simply as Exhibit 58.

[681] Hearing Examiner Ewell: I think so.

(Respondent's Exhibit 58-A and 58-B marked for identification.)

By Mr. Quarles:

Q. Very generally, what conclusions were arrived at by Ebasco? A. It is Ebasco's considered judgment that the severance of the gas properties would result in a serious and substantial loss of economies to the affiliated companies

of the NEES system. It would be especially harmful to the individual gas companies, but it would also have an impact on the remaining electric companies.

Q. Mr. Quig, the conclusions based on the study reflected in this report are of considerable significance in this case. Since it appears that the section on each gas company and on the five "companion" electric companies are organized on a similar basis, I would like you to take us on a "guided tour" through one section of this report dealing with a gas company and one with an electric company, so that we will have a general familiarity with the report.

Since we propose to call other members of the Ebasco team and to recall you later, I will not ask you at this time to go into detail. Which gas company would be useful to review for this purpose? A. The North Shore Gas Company which is covered on [682] pages 501 to 539 in Volume I of the Report would be a good sample.

Q. Mr. Quig, do you consider North Shore to be a fairly representative NEES gas company, organized and operated in general like the other gas companies of the New England Electric System? A. Yes, I do. It was in between the others in many respects. It did not serve the largest population; that was Mystic Valley Gas Company whose service area contained 437,133 people in the 1955 Massachusetts census. Nor did it serve the smallest population, for that was the Norwood Gas Company with 21,052 population in the same 1955 census. North Shore served a population of 146,231.

North Shore didn't have the highest saturation percentage of gas customers to population; that was Lynn Gas and Electric Company with 26 percent. It didn't have the lowest; that was Central Massachusetts Gas Company with 16 percent. North Shore had 23 percent.

North Shore's ratio of residential revenues to total

revenues wasn't the highest; that was Mystic Valley Gas Company with 85.8 percent. Nor was it the lowest; that was Central Massachusetts with 73.4 percent. North Shore's ratio was 77.8 percent.

North Shore didn't derive an unusually large percentage of its revenues from industrial sales such as [683] Central Massachusetts did with 17.3 percent, nor an unusually low percentage as did Mystic Valley with 3.4 percent. North Shore got 8.2 percent of its revenues from industrial sales.

Q. What kind of territory did North Shore Gas Company serve? A. Pretty well diversified one from an economic standpoint. The residential areas were typically suburban communities; the commercial and industrial areas contained numerous large and small companies trading in and manufacturing a wide and diversified range of products.

Q. Did any affiliated company operate in any portion of North Shore's service area? A. Yes. As Mr. Webster's map showed earlier, Merrimack-Essex Electric Company provided electric service in Salem, Beverly, Gloucester and Rockport. In the other two communities served by North Shore, Danvers and Peabody, electric service was provided by municipally-owned systems.

Q. Before proceeding with the detail of this section of the report, I think it would be helpful to have you explain how the North Shore Gas Company fitted into the NEES Organization generally. A. Mr. Quarles, I think that it would be helpful if I should first explain that as at January 1, 1959 there were seven straight gas subsidiaries of New England Electric System in Massachusetts and a combination gas and [684] electric company, namely, Lynn Gas and Electric Company. For the purpose of our study, we considered the gas department of Lynn Gas and Electric Company to be an eighth gas company.

In explaining the organizational setup of the NEES

gas companies as at January 1, 1959, I refer you to page 510 of the North Shore Gas Company Report for a typical functional chart of these eight gas companies.

As shown on this functional chart, NEES at the top is the sole or principal stockholder of the gas companies; then coming down the center of the organization chart you have the gas division, the executive head of which was the president of each of the gas companies except Lynn; then comes the vice president and manager of each local company, in this case North Shore Gas Company, and under him come the operating personnel of the company.

On the left of this functional organization chart is shown the New England Power Service Company, and on the right is shown the Northeast District Treasury Organization. The former renders services, upon request, to the gas companies, and the latter performs the local treasury and accounting functions.

Q. Mr. Quig, does this functional chart and the comparable charts in other sections of the report, reflect the corporate organization of each of the gas companies? A. No, sir. It is not intended so. This chart is a [685] schematic indication of the functional lines and does not reflect the corporate setup. The board of directors, the president, the treasurer and the clerk are not shown on this chart.

Q. Does this mean that the board of directors and the principal officers do not exercise the usual functions attributable to them? A. No, sir, not at all. The president is the chief executive officer of the company and is responsible to this board of directors. The treasurer is the key man in the financial and accounting area. In considering these functional charts, of which North Shore is a typical one, the legal and corporate responsibilities must always be kept in mind.

Q. Referring again to the typical functional chart as shown in the North Shore report, please explain the activi-

ties of each of the blocks shown thereon. Perhaps it would be best if we started with the block entitled "Gas Division." A. The Gas Division represents the executive head and the central managerial organization of the gas companies.

As already stated, the executive head of the Gas Division was the president of each of the gas companies, except for Lynn Gas and Electric Company which was an acquisition by the New England Electric System in 1957 and [686] had not been integrated fully into the NEES system by January 1, 1959. The executive head had three assistants to assist him in the various phases of management and operation of the gas companies. He also had a sales promotion manager and an engineering staff.

Q. How did the Northeastern District Treasury Organization fit into the picture? A. The Northeastern District Treasury Organization was one of the six district treasury organizations the headquarters of which were placed strategically around the NEES holding company system. These district treasury organizations handled all of the local treasury and accounting functions of the NEES subsidiaries, both gas and electric, within the area.

Q. Who performed the general treasury and financial work? A. The general treasury and financial work for the company was performed by the treasurer of the company and his staff.

Q. How did the NEPSCO fit into this picture? A. NEPSCO was a 100 percent owned subsidiary of NEES, authorized under the Public Utility Holding Company Act of 1935 to provide specialized services at cost upon request from affiliated companies.

Q. How did the New England Electric System fit into this [687] picture? A. At January 1, 1959, New England Electric System was the principal stockholder of each of the gas companies and the advice of the executive officers

of New England Electric System was available, without charge, to the gas division and the gas companies.

Q. Who was the top local executive of North Shore who devoted full time to North Shore's operations? A. The Vice President and Manager, who had direct responsibility over the activities of the Production, Distribution and Utilization Departments, as well as the Merchandising, Commercial and Industrial Sales Department.

Q. How were the services provided by the Gas Division and the District Treasury Organizations paid for? A. With certain exceptions, the services of these personnel were paid for by the companies which benefitted from their services. Thus, the members of the Gas Division, as well as the top members of some of the District Treasury Organizations were part-time employees of all of the companies for whom they performed work, and part of their salary was paid for by each company. Most of the members of the District Treasury Organizations, although they performed work for all of the companies of the geographical group, were assigned as full-time employees of one of these companies. These assignments were based upon the relative [688] work load imposed by the companies. One exception was the Treasurer and the Assistant Treasurer of each company, except Lynn, who hold the same positions with NEES. No charge was made to the operating company for these services.

Q. Did any advantages accrue to the individual operating company from these centralized management and accounting activities? A. Yes, sir, they certainly did. On the operating level, they could call on groups of experts in all phases of management and technical problems. In effect, each local management was supported by the Gas Division executives who in turn could obtain the services of the specialists in NEPSO and the advice of NEES officers. The centralization of treasury and accounting func-

tions promoted greater efficiency, flexibility and lower unit cost.

Q. Were there for each gas company some exceptions to your general comments on where they fit into the System organization? A. None that I think would be significant for the purposes of your "guided tour."

Q. With this background in mind, will you please proceed with your explanation of the portion of the report dealing with North Shore? A. The sections of the report dealing with each individual gas company are divided into two parts. For North [689] Shore, the first part, entitled "The Company as of January 1, 1959", concerns the company as constituted on January 1, 1959 and is covered on pages 504 to 518 of Volume I of the exhibit. The second part entitled "Effect of Severance", shows what it is expected would occur if the company is severed from NEES. This covers pages 519 to 539.

Q. Will you please discuss the first part? A. As you will note from the Table of Contents in pages 502 and 503, the first section on the Company covers subsections A through H. Subsection A, entitled "History and Business" on pages 504 and 505 gives the briefest kind of summary of the Company's history and business and service area. This summary in no way indicates the depth of our study of each company, but we did not think it necessary or appropriate to go into more detail, since a full description would have required a much larger report and we understood that detailed background of this type would be provided by Company witnesses.

Q. What is shown in the tabulation at the top of Page 505? A. As I have mentioned before, a NEES electric company, Merrimack-Essex, serves part of the service area of North Shore, although the service areas of the two companies are not co-extensive. This table shows for the area of the two companies which are served out of the

same [690] customer offices; the municipalities served; the populations in the 1955 Massachusetts census; the number of customers as of December 31, 1958 of NorthShore (Gas); and Merrimack (Electric); the total customers in each municipality served from these offices; and the number of combination customers; that is, those customers who took both gas and electric service from affiliated NEES companies.

Q. What about the table at the bottom of page 505?

A. This shows how gas customers on December 31, 1958 and the gas revenues for the calendar year 1958 were distributed by classes of service. You will notice that the House Heating and Building Heating services are classified separately from Domestic and Commercial services respectively.

Q. Have you any comments on the map on page 506?

A. I think the map with its descriptive symbols is self explanatory. It does show graphically one of the great barriers to extensive growth of the NEES gas companies,—the franchise areas are surrounded by those of other gas companies so that there is little or no room for territorial expansion, although there is room for growth within the service area of the company.

Q. What about sub section B on page 507? A. Sub section B at the top of page 507 entitled "Purchased Gas" describes these contractual arrangements. North Shore purchases its natural gas from Tennessee Gas [691] Transmission Company, as do all other NEES gas companies except Norwood, which purchases from Algonquin Gas Transmission Company. Some gas is manufactured by the Company's own facilities which are described, along with facilities for the distribution of gas, on pages 507 and 508.

The Company's manufactured gas plants are only used today for peak-shaving or standby purposes. That is, gas

is manufactured to reduce the peak demand from the pipeline supplier in order to avoid year round charges for demands that may only exist for a matter of hours on a few days; or to manufacture gas when emergencies prevent the pipeline supplying the required volumes. The gas manufactured, however, has the proper constituents so that it may within limits be successfully mixed with natural gas for use by the ultimate consumer.

Q. Will you discuss the organization of the North Shore Gas Company as it was on January 1, 1959? A. Sub-section D on pages 508 running to 516 briefly describes the organization of North Shore. Pages 508 and 509 cover the form of organization of the company as well as some of the services available to it through NEES generally.

I discussed this a few moments ago in my testimony and also described the functional chart on Page 510.

Q. Are the duties of the Executive and Chief Administrative officers of North Shore defined in the report? [692] A. Yes, sir, they are, although only in brief general terms. If you will turn to page 515 and the top of page 516, you will see the duties assigned to each of the major officials of North Shore and the location at which those duties were performed.

Q. This tabulation indicates that only two of these officials, the Vice President and Manager, and the assistant manager, were full-time employees of North Shore. The others were part-time employees. How did North Shore pay its share for their compensation? A. No direct payments were made for the services of two of the top officials you mentioned. These were the Treasurer and an Assistant Treasurer. Payments made to the other officials employed part-time are shown on page 511.

Q. I see this is part of a tabulation. Will you describe it, please? A. Sheets 511 through 514 consist of a Payroll Analysis of the North Shore Gas Company. It should be

clearly understood that this is only those employees on the payroll of the Company, either full or part-time.

Q. You have already mentioned a number of the part-time employees of the Company. Would you finish that discussion, please? A. You will note there are several engineers listed as part-time employees. These are the Gas Division engineers [693] and North Shore pays compensation for time actually worked. Sub-section D-2 on page 516 mentions this. Some other part-time employees are discussed in sub-section H on page 518.

Q. Have you anything else to say about sub-section D? A. Only to point out that sub-section D-3 at the middle of page 516 shows that North Shore is unionized, and that there are mentioned there the kinds of employee benefits provided. Sub-section E entitled "Production, Distribution, Utilization and Garage" appears at the bottom of page 516. I think this section is self-explanatory.

Q. Will you please explain sub-section F entitled "Treasury and Accounting" which is on pages 517 and 518? A. Referring back to page 510, the functional chart of North Shore Gas Company, you will see that this sub-section F discusses the work done under the aegis of the Northeastern District Treasury Organization which is in the upper right hand box on the chart. As I mentioned earlier, this Organization handled most of the Treasury and Accounting functions for the affiliated companies in this geographical area. The material in this sub-section F explains briefly the arrangements for the joint performance of these functions. Certain of the part-time personnel shown on page 511 perform these functions.

Hearing Examiner Ewell: Mr. Quarles, may I interrupt? I am just wondering if we are not getting near [694] lunch time. What time would you gentleman like to reconvene? Off the record.

(Discussion held off the record.)

Hearing Examiner Ewell: We will adjourn until 2:00 o'clock for lunch.

(Whereupon, at 12:50 o'clock p.m., the hearing in the above-entitled matter was recessed until 2:00 o'clock p.m. of the same day.)

[695]

AFTERNOON SESSION

2:00 o'clock p.m.

Hearing Examiner Ewell: We will resume.

Whereupon,

ROBERT S. QUIG

resumed the stand and testified further as follows:

Direct Examination (Resumed)

By Mr. Quarles:

Q. I believe we have now reached subsection G on Sales and Merchandising, is that correct? A. Yes. This subsection on page 518 outlines the present arrangements for Sales and Merchandising. This indicates generally the separation of the new business activities of North Shore Gas from those of its affiliate, Merrimack-Essex Electric.

Q. How about sub-section H on page 518? A. This subsection discussed other part-time and full-time employees who are shared with other affiliated companies and handle activities such as personnel, insurance and safety.

Q. Will you please move on to Part II of the North Shore section of the report? A. Part II of the North Shore section of the report deals with the effect that severance from the NEES System will have on North Shore. The Table of Contents on pages 502 and 503 indicates the various headings under which [696] these effects are discussed. The general effect of severance on North Shore is discussed on page 519.

Q. Will you explain the chart on page 520? A. This chart shows both the structure of the projected new organization to operate North Shore's business on an independent basis as well as an indication of the particular employees who would be in the various parts of this organization.

Q. Will you tell us very generally how Ebasco decided what was the best form of organization for this Company? A. The various members of the Ebasco Team were aware from their own experience and their study and analysis of the NEES situation over the past year what functions the newly independent company would have to perform; how other similar sized companies, both in New England and in other parts of the country, were organized; and how the necessary functions had been performed at January 1, 1959.

Based upon the analysis of work loads and other materials and factors and with the benefit of the views of the NEES people who were concerned with the Company in each area, we drew together the recommendations of each of our team members, prepared a pro forma Organization Chart, discussing it at all steps along the way among ourselves and with the appropriate NEES officials.

Of course, this is only the briefest sort of summary [697] of what we did.

Q. I understand that, but since I expect to pursue this matter further with you and other witnesses later it will suffice for the present. Is the pro forma organization of each of the eight gas companies the same? A. By no means, except in the sense that each company has an officer assigned to be responsible for all functions that have to be performed. Larger companies, such as North Shore, have more executives who subdivide more of the work to be supervised.

Smaller companies have a smaller number of executives

but each has more fields to supervise. For instance, North Shore would have had a full-time Sales Manager to handle all sales matters, whereas a smaller company, such as the Northampton Gas Light Company would have had to assign to its President direct responsibility for merchandising, sales promotion and commercial and industrial sales activities.

You will note that in each company some executive is directly charged with responsibility for each necessary function.

Q. I see that the chart on page 520 lists the personnel that would be needed to perform the various company functions. Is there an analysis of those personnel and their salaries? A. Yes, sir, there is. The Personnel Analysis Pro Forma on pages 521 through 523 covers all of these people and [698] shows the payroll amounts.

Q. Where the responsibility of a position in the Pro Forma organization has not changed, are the salary levels the same? A. Yes. This can be seen very quickly by comparing the total number of full-time personnel and payroll of the Operating Departments for the pro forma organization as shown in the middle of page 522 with that of the present company as shown on the bottom of page 512. Similarly, with the totals for New Business on pages 522 and back on page 513.

This is true even though in some cases there might be increases in responsibility although the same salary would be paid.

Q. In general, how did Ebasco arrive at the salary and wage levels shown on pages 524 and 525? A. The first step, of course, was to ascertain in detail exactly what each job would consist of in terms of both work load and responsibility. We next examined what was being paid by other Massachusetts companies, and by other companies operating in the New England area for comparable jobs plus

our general knowledge of "going" rates for various classes of personnel in other parts of the country.

We also investigated presently effective union contracts to see what salary and wage levels were prescribed for various job classifications. The levels at which we [699] finally arrived, and which are shown on pages 521 through 523, are what Ebasco felt would have to be paid on January 1, 1959 for the classes of personnel as shown.

Q. Where changes have been made in job classification, are those salary increases indicated? A. They are, and this can be deduced by comparing the pro forma personnel analysis with the payroll analysis of the Company as presently constituted. However, I think it is simpler to refer to the individual sub-sections of Part II of the North Shore report where such changes are shown in detail.

Q. Would you explain sub-section A of Part II? A. Yes, sir. A description of the most important of the top management group and their functional responsibilities is given on page 524. The remainder of sub-section A on pages 524 through 526 shows the wage and salary levels of the Executive, Administrative and Staff personnel of the Company as it would be under independent operation and summarizes the effect of severance on North Shore.

Q. Is the total figure of wages and salaries for the Executive, Administrative and Staff personnel shown at the top of page 525, the figure used in arriving at the net effect of severance on North Shore? A. No, sir. Those were based on the levels prevailing on January 1, 1959. They were about five percent higher than [700] those prevailing during 1958 so the total of wages and salaries was re-adjusted downward by that amount to approximate the amount that would have been paid in the test year 1958.

You will note that the 1958 figure which occurs in the text at the middle of page 525 is the one carried over to the tabulation on the top of page 526.

This shows the net effect of severance on the executive, administrative and staff functions and how this was arrived at.

The summary tabulation at the bottom of the page shows the net effect on the income accounts of the company of severance in the Executive, Administrative and Staff areas.

Q. Do the figures in this tabulation show up in any other part of the report? A. Yes, they appear in the tabulation in the sub-section on Summary of Increased Cost on page 537 of this report.

Q. What is the next sub-section of this part of the North Shore report? A. Sub-section B entitled "Production, Distribution, Utilization and Garage" on pages 526 and 527. In general, these Departments function separately from electric activities. We have made certain small adjustments for those "fringe areas" where work is performed in conjunction [701] with Merrimack but we expect Operating Expenses to remain relatively constant.

Q. Would there be any changes in the New Business function after severance? A. Sub-section C, page 527, discusses the New Business function after severance. The present Staff is adequate and would remain intact. However, it would be necessary to assign one man as Sales Manager since the sales functions now performed by an assistant manager at Beverly and by Gas Division personnel at Malden would no longer be available. Certain other minor adjustments would also be made as are discussed in the text on those two pages.

Q. What about sub-section D? A. Sub-section D on pages 527 through 532 discusses Treasury and Accounting functions in detail. In the past, most of the supervision was furnished and many functions in this area were performed for North Shore on a joint basis, by the Northeastern District Treasury Organization. If severed, similar

type supervision and many of the functions would have to be furnished and performed on a one-company basis and a larger number of clerical employees would be required which would result in some loss of economies. Also, the NEES System personnel would no longer be available to supply overall supervision of Treasury and Accounting functions, nor could NEPSCO be called upon to furnish specialized accounting [702] services as in the past.

Formerly, substantially all of the purchasing function was performed by NEPSCO. Operating independently, this function would be performed by the Stores Group.

Q. Will you describe the tabulations showing the monetary effect that severance would have on the Treasury and Accounting functions of North Shore if the Company were to operate independently? A. There are three such tabulations in this subsection. The first, on page 529, summarizes the effect of severance on general accounting functions.

The second, on page 531, summarizes the additional costs North Shore would incur through having to perform its customer accounting activities separately.

The third, on page 532, shows the effect of severance on the performance of the Stores activities of the company.

Q. Are all of these tabulations prepared on the same basis? A. They are, sir. Take that on page 529 as an example. It shows the number of employees under various job classifications and annual payroll costs which were being paid by North Shore for these services under the columns headed actual.

Under the columns headed Pro Forma are shown the number of personnel of various job classifications and the annual payroll costs that would be necessary to perform [703] these functions on an independent basis. The difference is shown under the last two columns headed Increase.

As mentioned before, these salaries were reduced to arrive at the salary levels in effect in 1958. As these tabulations show, the greatest losses on severance would be in the customer accounting area since this is the area of most closely integrated operations.

Q. What about subsection E entitled "Intercompany Rents" on page 533 of the North Shore report? A. This shows the projected net costs to the company of space reallocations which would be necessary upon severance.

Q. How about Insurance Premium Costs? A. These are discussed in subsection F at the top of page 534. This would be one of the most important effects of severance and one that might cause very unsatisfactory results. Very simply, the whole insurance question comes down to this: a small independent gas company cannot get adequate insurance for anything like what this company is now paying as part of the NEES System. In fact, it is doubtful if it can get adequate insurance at any premium which might be considered acceptable.

The gas business, rightly or wrongly, is considered relatively hazardous by insurance underwriters and they are reluctant to write such policies due to past loss experience in the industry. Even though North Shore's Insurance Premium [704] Costs would be increased, the comprehensive coverage that was available to it through the NEES system will no longer be available to it.

Q. How about Transportation Costs? A. These will increase due to three additional vehicles being required. There will also be some loss of revenue due to some garage service that was performed on Merrimack trucks.

Q. What is this item entitled "Professional Services"? A. Subsection H on pages 534, and running over on 535, discusses the various functions that have heretofore been provided and would either no longer be so provided or for which it would be necessary to pay increased charges.

These might well be greater than we have estimated for any particular year, but we have included no charges for professional services that are only necessary occasionally.

Q. Will you proceed with your explanation of part 2 of the North Shore Report? A. Subsection 1 on pages 535 and 536 covers a number of miscellaneous minor costs which are described in this subsection. The tabulations on page 536 summarizes the effect the increases in these minor accounts would have had on the income accounts of the North Shore Gas Company if the company had been operating independently. Only reasonably predictable costs have been included.

Q. Have you covered the classifications of increased [705] costs resulting from severance? A. Yes, sir, we have. Subsection J on page 537 summarizes on one page all of the increased costs caused by severance. The Income Accounts of the company that would be affected by severance are shown across the top of the tabulation. These are, Other Operating Revenues, Operating Expenses, Payroll Taxes, Non-Operating Income and Depreciation.

Along the left side of the tabulation are listed the items that would cause such increases. Each figure on this page comes from the appropriate section of Part II of this report where the effect of severance on North Shore's operation was discussed.

Q. What about subsection K? A. Subsection K on pages 537 through 539 is entitled "Statements of Income" and shows on page 539 the Statements of Income Actual for the years 1958 and 1959 and as pro forma to show the effect that severance would produce.

The adjustment columns which are the means of arriving at the Pro Forma totals are with respect to 1958 and, with one exception, taken from the Summary of Increased Cost table on page 537.

Q. What is that one exception, Mr. Quig? A. That is the adjustment for Federal Income Tax. This adjustment arises from two causes; the effect on North Shore's Income Accounts of the increase in expenses and a decrease in [706] revenues caused by severance, which will cause a decrease in Federal Income Tax Payable; and the loss of savings which accrued to North Shore through its participation in consolidated Federal Income Tax returns filed by NEES and its subsidiaries in 1958.

Q. What about the adjustment column with respect to 1959? A. The adjustments are the same as those for 1958, except that payroll is higher by five percent and Federal income tax adjustments reflect the 1959 situation.

Q. Does this complete your discussion of the section of the report which deals with the North Shore Gas Company? A. It does.

Q. To what extent is what you have said about North Shore applicable to the other gas companies? A. Of course, the facts and figures would be different for each company. But the pattern is the same and so are the principles and methods that we used in analyzing each of the gas companies. In particular, I can say that the approach to setting up the pro forma organization and other pro forma figures was the same for each of the gas companies.

Q. Mr. Quig, you have made clear that some functions of affiliated companies were handled jointly. Can I assume, therefore, that the electric companies would also feel the effect of the severance of the gas companies? [707] A. Yes. Five electric companies had considerable interrelated activities with gas companies and thus would be directly effected by the severance of the gas properties from NEES. These were, the electric department of the Lynn Gas and Electric Company, the Merrimack-Essex Electric Company,

Northampton Electric Lighting Company, Suburban Electric Company and Worcester County Electric Company.

The remaining nine electric companies did not have any material joint operations with any of the NEES gas companies. But they would be affected by the severance of the gas business because of NEPSCO. If the severance of the eight gas companies were ordered by this Commission, certain expense reductions could be instituted by NEPSCO that would partially offset the effect of the loss of billings from the gas companies. But there would still be some \$150,000 of net loss to NEPSCO from billings to gas companies that would have to be made up by the fourteen electric companies.

Q. Is there any section of the Ebasco report which explains the effect of the severance of the gas properties of the NEES system would have on those nine electric companies? A. Yes. The section in Volume II headed Other Affiliated Electric Companies. That is in Exhibit 58-B.

Q. Since Merrimack-Essex Electric Company has a number of inter-related activities with the North Shore Gas Company whose section of the Ebasco report you just explained, will [708] you continue your "guided tour" by taking us through the Merrimack-section of the report. A. Yes, sir, I will. If you will turn to page 1001 to 1022 of Volume II.

Q. What is the nature of Merrimack's service territory? A. It serves much the same type of territory as North Shore and a portion of its service area is coextensive with a large portion of the North Shore service area.

Q. Did any other affiliated gas companies operate in the area? A. Yes, in addition to North Shore, the Lawrence Gas Company operated in some of Merrimack's service area.

Q. What is the nature of the business of Merrimack?

A. It is engaged in the generation, purchase, transmission, distribution and sale of electricity in 26 cities and towns of Essex and Middlesex Counties in Massachusetts. Electricity was sold both at retail for ultimate consumption and at wholesale for resale.

Q. Will you please explain the section of the Ebasco report that deals with Merrimack? A. Just as in the case of the gas companies, each section is in two parts. The first deals with the Company as constituted on January 1, 1959 and the second with the effects of severance of the gas properties. A table of contents is shown on page 1002.

[709] Q. Would you describe Part I, please? A. There are no subsections to Part I. It starts on page 1003 and runs to page 1006. It gives a thumb-nail sketch of the operations of the company. The tabulation on page 1004 indicates the distribution of customers as of December 31, 1958 and of annual revenues for 1958 by classes of service. A map of the service area appears on page 1005.

Q. Please describe Part II. A. Part II describes the effect of severance of the gas properties on the Merrimack-Essex Electric Company. The part is divided into subsections each dealing with functions or areas which would be affected by severance or with tabulations of the effects.

Q. Will you describe the first of these subsections? A. Subsection A on pages 1007 through 1009 concerns administrative, general supervisory and staff personnel. There would be no change in the basic company organization or its functioning but the severance of the gas properties would cause certain personnel to become full-time employees whose payroll cost was previously shared by the companion gas companies and who devoted a part of their time to gas company matters.

The tabulation on page 1009 has four columns and shows, reading from left to right, the classifications of personnel that would be affected and their salaries under the [710]

headings of Actual, Pro Forma and Increase. These salaries are at January 1, 1959 levels. Since our test year was 1958, it was necessary to reduce these salaries to those prevailing in that year. These adjustments are shown at the bottom of the tabulation.

The net effect of severance is shown at the right-hand bottom line in the short table at the end of subsection A on page 1009. The distribution of the increase is shown in the sentence under the tabulation.

Q. Does this figure appear elsewhere in this section of the Ebasco report? A. Yes. It is shown in subsection H on page 1020 in the Summary of Increased Costs of Merrimack caused by severance of the gas properties.

Q. Will you tell us about subsection B. A. Subsection B, beginning on page 1009 through 1011 indicates the effects of severance of the gas properties on Merrimack's Distribution Department in Service and Meter and Garage covered in the two subsections numbered B-1 and B-2 respectively. Each of these subsections has a tabulation in the same form as that on page 1009 which I just discussed, as well as a brief table of the net effect of severance on that function of Merrimack.

Q. Will you continue, please? A. Subsection C on Treasury and Accounting covers [711] pages 1012 to 1017. It has three subsections: C-1 General Accounting, pages 1012 to 1013; C-2 Customer Accounting and Collecting, pages 1013 to 1016; and C-3 Stores Accounting on pages 1016 and 1017. Earlier I devoted some time to how the Northeastern District Treasury Organization was handled in the gas section of the report. With those comments and the fact that this subsection in effect represents the other side of the coin, I feel that the material on these pages can be easily understood.

There is a detailed tabulation of the effects of severance

and a brief statement of the net effect at the end of the subsection for inclusion in the subsection H summary.

Q. How about subsection D? A. The subsection D is on page 1017 and concerns the effect of severance on Merrimack through increased NEPSCO billings. This is the same item that applies to all of the electric affiliates of NEES which I discussed earlier. The basis for the higher billing is based on the section of the report relating to the Service Company.

Q. Would you explain subsection E relating to rentals? A. I believe that this subsection is fairly self-explanatory. What I said in my discussion of this subsection in the North Shore report is true here. The net effect caused by severance is shown at the top of page 1018.

[712] Q. Will you discuss subsection F? A. This subsection at the bottom of page 1018 discusses transportation costs and, I believe, is self-explanatory.

Q. How about subsection G? A. This subsection appears on page 1019 and covers the Miscellaneous items. There are many of these though none are large. They are adequately described in the text and the tables show the net effects of severance on the appropriate income accounts of the company.

Q. Will you now discuss sub-section H on page 1020? A. This sub section summarized the net effect of severance of the gas companies from NEES on the income accounts of Merrimack-Essex Electric Company.

The left side of the table shows the items that would cause the increases while the Income Accounts in which the increases would occur are shown across the top of the table. Each figure on this summary comes from the appropriate sub-section of Part II of this section of the report.

Q. Are these figures carried through to the Statement of Income on page 1022? A. Yes. Sub-section I on pages

1021 to 1022 contains Statements of Income for 1958 and 1959 on an Actual and Pro Forma basis after severance of the gas properties. The adjustment column for 1958 which is used to arrive at the Pro Forma totals contains the figures from the Summary of [713] Increased Cost tabulation on page 1020 plus an appropriate reduction in Federal income taxes arising from the increased costs of Merrimack caused by the severance of the gas properties from the NEES system.

Q. Mr. Quig, you have now reviewed with us a section of the report dealing with one of the electric companies affected by severance. Would you say that the approach and methods in making the study set forth in this section was that which was generally used in dealing with the electric companies which operate on a joint basis with what you call companion gas companies? A. Yes, I would say that. Of course, because the extent of commingled activities varies considerably among the various areas of the system where gas and electric operations are joint, the facts and figures will show considerable variance from one electric company to another. However, in general, I would say that the methodology is the same.

Q. Having now taken us through a section of the report dealing with a typical gas company and one dealing with a typical electric company, would you now review with us very briefly the section of the report on NEPSCO? A. The report on NEPSCO is contained in the first part of Exhibit 58-B. The first part of the report is devoted to the history and present organization of the company, a [714] description of the services provided by the company to the gas and electric companies, and a description of the methods of billing the operating companies for services performed by NEPSCO.

If you will turn to page 1516, there is a discussion of the 1958 billings to the gas companies, and in connection

with those there are two tables, which appear at the end of this portion of the report.

Q. Since I will ask another witness to explain these in some detail, will you please move on to a description of the effect of severance on NEPSCO? A. We will start on page 1517. The remainder of the report deals with the effect of severance on NEPSCO. As is noted, the bulk of this effect is in the service division and this is considered here first.

On Pages 1517 and 1518 are shown the reduction in servicing division personnel which we believe to be possible in the event that NEPSCO no longer services the gas companies. I can tell you frankly that we are a little doubtful that all of these people could actually be eliminated without impairing the quality of the service which NEPSCO could render to the electric companies.

Q. What would be the effect on the construction division of NEPSCO? A. If you will look on page 1518 of the report, it is [715] somewhat easier to ascertain this since there are certain specific individuals in this division who work almost solely on gas matters. The figure shown on page 1518 represents the reduction in NEPSCO expense which we believe possible. For the reason stated, no reduction can be assumed as possible in the engineering division.

Q. What is the total effect on NEPSCO of severance?

A. There would be a substantial expense load to be assumed by the remaining electric companies. We estimate this to be \$150,000 per year, of which \$50,000 would go to the non-operating or plant accounts of the electric companies, and \$100,000 to their operating expense.

Q. Will you explain the table on page 1520? A. We have allocated this increased burden on the electric companies, and have used a Gross Operating Revenue Basis.

Mr. Quarles: Mr. Hearing Officer, having now had this proposed exhibit described, I offer it as Exhibit 58-A and B in evidence.

Hearing Examiner Ewell: Is there any objection?

Mr. Nowlin: Mr. Examiner, we haven't had a chance to analyze or consider this report at all prior to the hearing this morning, and I can see one or two items concerning which I have serious doubts as to whether they have any relevancy or materiality to the issues involved.

[716] I would therefore suggest that Mr. Quarles withhold his offer until the staff has had a chance to examine this further. We are just in no position to pass on it this afternoon.

Hearing Examiner Ewell: I can reserve ruling on it. That would accomplish the same purpose.

Mr. Nowlin: I would suggest then that you do reserve your ruling until we have had a chance to study it more and reach a decision as to whether or not we think some of these matters are relevant.

Mr. Quarles: I certainly have no desire to press for an immediate decision on it. I am rather surprised that it is suggested that there is any part of it that isn't relevant, but if there are doubts about it, I will agree to postponement of the ruling.

Hearing Examiner Ewell: Of course, having been marked for identification, it will be available for examination and for use in the examination of witnesses.

Mr. Quarles: Yes, sir.

Hearing Examiner Ewell: And subject to any objection which might be raised as to any particular portions as it arises.

Mr. Nowlin: Well, it constitutes a mass offer which we haven't had a chance to examine, and I don't want to be obstructed. I don't want to go ahead without [717] having a chance to analyze and consider it.

Mr. Quarles: I cannot say that is an unreasonable position for counsel to take.

By Mr. Quarles:

Q. Mr. Quig, I show you two tables stapled together, each headed "New England Electric System—Adjustments to Statements of Income of Eight Massachusetts Gas Companies Owned by NEES Caused by Severance of Gas Business."

One of these is for the twelve months ended December 31, 1958 and the other for the twelve months ended December 31, 1959, and I ask you whether these were prepared under your supervision and whether they correctly set forth the information they purport to show? A. Yes, they do.

Mr. Quarles: I will offer these exhibits as No. 59.

Hearing Examiner Ewell: Any clarifying questions or objections?

Mr.* Nowlin: I was just asking, Mr. Examiner, which ones he was offering as No. 59.

Mr. Quarles: The gas exhibits, consisting of two pages stapled together.

Hearing Examiner Ewell: I assume there is no objection to its receipt?

Mr. Nowlin: No objection.

[718] Hearing Examiner Ewell: It will be received.

(Respondent's Exhibit 59 was marked for identification and received in evidence.)

The Witness: Referring to what has been identified as Exhibit No. 59, each of the eight sections of the report that deal with gas companies contains a statement of income, actual and pro forma, for the twelve months ended December 31, 1958 and 1959. In order to arrive at the pro forma figures, a column for the adjustments made necessary by severance is included in each statement of income. We have tabulated by Company the data under

these adjustment columns to arrive at the total effect of severance on the eight companies.

By Mr. Quarles:

Q. Will you tell us, generally, what some of the larger of the increases in expenses are? A. 70 percent of the increase in operating expenses shown in the right hand column of \$1,385,000, or \$967,200 would be accounted for by three items. These three items, and the amount they would increase, are: Customer Accounting, \$409,600; Executive, Administrative and Staff, \$282,600; and Insurance, \$275,000.

Q. What would be some of the other increased items of Operating Expense? [719] A. Such items as increases in expenses for General Accounting, Professional Services, New Business, Stores, Inter-company Rents, Machine Accounting, Space Facilities, Production, Distributions and Utilization, etc., would account for \$418,600 or the remaining 30 percent of the increase in operating expenses.

Q. Have you also prepared tabulations showing the total effect on the income of the electric properties in the event of the severance of the gas business? A. I have.

Q. I show a two-page tabulation entitled "New England Electric System. Adjustments to Statements of Income of Fourteen Electric Companies Owned by NEES Caused by Severance of the Gas Business." Again, one is for 1958 and one is for 1959. Were these prepared under your supervision and do they correctly set forth the information they purport to show? A. Yes, sir.

Mr. Quarles: I offer them as Respondent's Exhibit No. 60.

Mr. Nowlin: Mr. Examiner, I would like to state, as to Exhibits 59 and 60, they seem to reflect compilations of some of the elements contained in the report concerning which we have some doubt as to the relevancy. I am not objecting to 59 and 60 as such, but I do not mean by that

[720] that I do not reserve complete freedom to attack the conclusions that are reflected therein at some later time.

Hearing Examiner Ewell: You mean you want to make further objection as to the significance?

Mr. Nowlin: That is right. I may have objections to the whole exhibit, once we have found there are any frailties in any of the computations reflected there. It may cast doubt on the validity of the whole exhibit, but I don't know what our position will be until we have had a chance to examine and consider them. What I am saying is I don't waive any freedom of action in respect of these exhibits or concede the probative value of these exhibits at this time.

Hearing Examiner Ewell: Well perhaps your position can be made clear later on, if necessary, by a motion to strike.

Mr. Nowlin: That might be the method for exposing it, but we are just not in a position to state whether or not we have any objections to these exhibits, because we don't have enough information to reach any conclusion.

Hearing Examiner Ewell: I think, in view of the tremendous volume of the material, Exhibit 58 being some 1500 pages, it is a reasonable position to take.

Mr. Quarles, have you any strenuous objection to it?

Mr. Quarles: As I understand Mr. Nowlin's position, [721] it is simply this. He is not objecting to these exhibits as such but does not want silence or consent to this to be interpreted as approval of material in Exhibit 58, which he has not yet examined.

Mr. Nowlin: That is right.

Mr. Quarles: I do not disagree with that. I am perfectly willing to have the exhibits accepted on that basis.

Hearing Examiner Ewell: They will be received in accordance with the statements placed in the record.

(Respondent's Exhibit No. 60 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Will you explain this Exhibit No. 60? A. The first sheet of the tabulation is for the twelve-month period ended December 31, 1958, the second for the twelve months ended December 31, 1959. They were prepared in the same manner as were those on the gas companies. As I mentioned before, all the electric companies will be affected by having to absorb the irreducible portion of NEPSCO costs. In addition, those electric companies which have interrelated operations with one or more of the affiliated gas companies will also suffer some loss of economies.

Q. I note that the effect of severance on the Gross Income before Federal Income tax of the fourteen electric [722] companies of the NEES System in 1958 would have been a decrease of \$804,800. What is the major reason for this decrease? A. The major reason for this decrease is the increase in operating expenses of \$663,400.

Q. Can you give us some idea of the larger of these increased items? A. 71 per cent of these increases in operating expenses of \$663,400 or \$472,200, would be accounted for by three items. These three items, and the amounts they would increase, are: Customer Accounting, \$323,700; NEPSCO billings, \$100,000; and Executive, Administrative and Staff, \$48,500.

Q. What would be the other increased items of Operating Expense? A. Such items as increases in expenses for New Business, General Accounting, Machine Accounting, Stores, Intercompany Rents, Transportation, Space Facilities, Production, Distribution and Utilization, would account for \$191,200 or the remaining 29 percent of the increase in Operating Expenses.

Mr. Quarles: Mr. Hearing Officer, I would again request the privilege of excusing a witness for the privilege of recalling him later.

Hearing Examiner Ewell: Certainly. Then this witness can step down at this time.

Mr. Quarles: Next I would like to call Mr. Harold [723] Dalbeck. Mr. Dalbeck has not previously been sworn, since he has not testified in this case.

Whereupon,

HAROLD L. DALBECK

was called as a witness for the respondents, and having been first duly sworn, was examined and testified as follows:

Direct Examination

Hearing Examiner Ewell: State your full name for the record.

The Witness: Harold L. Dalbeck.

By Mr. Quarles:

Q. Mr. Dalbeck, would you give the reporter your business address? A. 157 Pleasant Street, Malden, Massachusetts.

Q. What is your present position in the NEES system?

A. I am the president of all eight of the NEES system gas companies, and as such I am the principal officer of the NEES system Gas Division.

Q. Mr. Dalbeck, will you give us a resume of your education and experience in the public utility industry?

A. I am a graduate of Northeastern University and have been connected with the public utility business for 38 years. During that period I have been associated with gas companies operating both separately from and in combination with electric companies.

[724] I was employed by the Worcester Gas Light Company in 1922 as an Accountant. This company was independent of any holding company affiliation until 1926 when it became a subsidiary of New England Gas and Electric

Association. In 1927, many of the activities of the New England Gas and Electric Association and its subsidiaries were centralized in Cambridge and my assignment was to organize the central office. Initially general accounting, sales, purchasing, stores, transportation and top management were centralized, and later customers' accounting as well.

During the period 1927 to 1940 I was General Auditor of the Association and General Auditor and Assistant Treasurer of its subsidiary companies.

In 1940, I joined the NEES system and was employed by the New England Power Service Company of which I was Treasurer from 1941 until 1951. I testified before this Commission in 1941 at the Service Company reorganization hearings, and was responsible for developing the accounting system which was necessary to maintain our records in conformity with the order of the SEC at that time.

In 1951, I became District Treasury Representative for all of the NEES system gas and electric retail subsidiaries in Massachusetts north of Boston, including the Mystic Valley Gas Company, North Shore Gas Company, Lawrence Gas Company, Suburban Electric Company, Merrimack-Essex Electric Company, [725] and their predecessors.

In August 1957, I was made President of all the Massachusetts gas companies of New England Electric System and of Lynn Gas Company when it was organized in February of 1960.

I am a Vice President of the New England Gas Association, the trade association that includes practically every gas company in New England, and a member of the PAR Committee of the American Gas Association. The PAR Committee being responsible for budget approval of all expenditures of the AGA for national advertising, public relations and fields of research.

Q. Will you now describe briefly your present position and responsibilities as President of the NEES system gas companies? A. As President of each of the NEES system gas companies and as principal officer of the Gas Division, I am responsible for the overall operation of these companies. I am responsible for the operation and maintenance of gas production and distribution facilities, customer service, promotion and sale of gas, promotion and sale of gas appliances, relations with customers and the general public, relations with regulatory and other public authorities, relations with employees, and all other matters pertaining to the operation of the gas companies. As president of each [726] company I report to its Board of Directors. I also report to the Vice President of the NEES system for Management, Mr. R. F. Krause, in relation to questions of NEES system policy.

Q. Are you familiar with the organization chart headed "New England Electric System—Holding Company System—Functional Organization Chart Electric and Gas Operations" which has been introduced in this proceeding as the respondent's Exhibit No. 53? A. Yes, sir, I am.

Q. Where is the NEES system Gas Division represented on that chart? A. The Gas Division is represented by the T-shaped group of blocks at the right-hand side of the chart headed by the block entitled "President of Gas Companies."

Q. Will you describe briefly the relations between the Gas Division and other parts of the NEES system represented on the chart? A. As the chart indicates, the only formal line of direct authority between the Gas Division and the rest of the NEES system is between myself as president of the gas companies, and the Vice President in charge of Management of NEES. There are, however, many other blocks on this chart that represent activities closely related to the operations of the Gas Division and

the gas companies. I will cite them [727] briefly starting at the right side of the chart. The Vice President and General Counsel handles practically all legal matters for the gas companies.

The Vice President in charge of Public Relations and his staff provide newspaper releases, advice on contacts with local officials, and cooperates in promotional advertising programs.

Six of the eight blocks directly under the Vice President in charge of Management, which are labelled "Rates", "Labor Relations", "Personnel", "Medical", "Safety" and "Regulations" represent service company personnel who work very closely with the gas companies when services of the nature that they provide are required and requested by the gas companies.

The Vice President and Treasurer serves as Treasurer of all NEES gas companies except Lynn, and accounting for the gas companies, as well as the electric companies, is performed on a combined basis by the organization under him. Under the Vice President in charge of Electric Engineering and Operations, purchasing is centralized for all gas and electric operations. We have some minor contacts also with people in construction and engineering, although the bulk of our engineering is done by personnel in the Gas Division.

The functions of the Vice President in charge of System Planning relate solely to the electric business; [728] analogous functions for gas being performed inside the Gas Division.

Q. Mr. Dalbeck, will you name the retail gas subsidiaries of New England Electric System? A. These companies are Central Massachusetts Gas Company, Lawrence Gas Company, Lynn Gas Company, Mystic Valley Gas Company, North Shore Gas Company, Northampton Gas Light Company, Norwood Gas Company, and Wachusett Gas

Company, all of which are incorporated and operate exclusively in Massachusetts.

Q. I show you a bound volume entitled "New England Electric System—Gas Subsidiaries—Maps Showing the Service Areas of Each of the Companies". Please tell what it shows. A. It contains individual maps of the service area of each of the NEES gas companies.

Q. And do they accurately set forth the information they purport to show? A. They do.

Mr. Quarles: I will offer this as Respondent's Exhibit No. 61.

Mr. Nowlin: I have no objection.

Hearing Examiner Ewell: It will be received.

(Respondent's Exhibit No. 61 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. I should like now to have you give a certain amount of background information about each of these eight companies, in order, as a sort of introductory description.

First, will you outline briefly the corporate history of Central Massachusetts Gas Company? A. Central Massachusetts Gas Company was organized [728-A] in 1950. In 1951 it purchased the gas properties of Worcester County Electric Company and Spencer Gas Company. Spencer Gas Company had been organized in 1886 as a combination gas and electric company.

In 1922, it acquired the gas properties of Worcester County Gas Company in the towns of Warren, Brookfield, North Brookfield, East Brookfield, West Brookfield and Leicester. Spencer Gas Company joined the NEES system in 1931. Worcester County Electric Company was organized in 1887 and [729] authorized to do a gas business in 1888. In 1907, it purchased the gas and electric properties of Southbridge Gas and Electric Company.

In 1937, it acquired by merger the properties and fran-

chises of Worcester Electric Light Company. It joined the NEES system in 1927. Central Massachusetts Gas Company and its predecessors have served gas continuously for 89 years.

Q. Please describe briefly the company's service area.

A. The company serves approximately 9,700 customers, and operates in two divisions. The Southbridge division serves the towns of Southbridge, Dudley and Webster, and the Spencer division serves the towns of Spencer, Warren, Brookfield, West Brookfield, North Brookfield, East Brookfield, and a part of Leicester. The territory served comprises an area of 200 square miles and had an aggregate population, according to the 1955 census, of 61,266. The 9,700 gas customers of the company are served with electricity by the affiliate Worcester County Electric Company. The communities served vary from the industrial towns of Southbridge and Webster to those in the Spencer division which are predominantly rural. Most of the towns served are good residential communities.

The total 1959 sales were 754,943 NCF of which 54.4 percent were to domestic customers, 7.7 percent to [730] commercial customers, and 37.9 percent to industrial customers.

The heavy industries of the service area have concentrated principally in Southbridge and Webster, and the products manufactured include optical instruments, textiles, shoes, cutlery, toys and annealed wire products. The diversification of industry, coupled with the farming which is carried on in the area, makes its economy stable and well balanced.

Q. What are the company's principal physical properties? A. The company owns 141 miles of mains. It has an L.P. air gas plant in Southbridge located behind a jointly occupied office owned by Worcester County Electric Company, and holder stations in Southbridge, Webster and

Spencer. It has two receiving stations for taking gas from Tennessee Gas Transmission Company, located in Spencer and in Southbridge.

The main office of the company is in downtown Webster, in an office building owned and also occupied by Worcester County Electric Company. The Distribution, production and utilization departments are located at the rear of this building in a building owned by the company and used for gas operations exclusively. A garage at this location is used jointly by both the gas and electric companies.

[731] Also, a building in downtown Spencer, which is leased by Worcester and sublet to the gas company, is used by both companies for sales and customer accounting activities, and the superintendent of the Spencer division of the gas company has his office there. The distribution and utilization departments of the Spencer division occupy with distribution personnel of the electric company another building owned by the gas company in Spencer.

Q. How many employes has Central Massachusetts Gas Company? A. Central Massachusetts Gas Company has a total of 61 employes, of whom 46 are fulltime employes.

Q. Will you please state briefly the corporate history of Lawrence Gas Company? A. Lawrence Gas Company was organized in 1951, and in 1953 purchased the gas properties and franchises of Lawrence Gas and Electric Company which had been incorporated as Lawrence Gas Company in 1849 and had been authorized in 1887 to also engage in the electric business. The company joined the NEES system in 1927. The present Lawrence Gas Company, or its predecessors, has provided continuous gas service for over 110 years.

Q. Please give a brief description of the Lawrence Gas Company's service area. A. This company serves approximately 33,000 customers [732] in the city of Lawrence and

the adjoining towns of Methuen, Andover and North Andover. Methuen, Andover and North Andover are predominantly residential communities, and all are experiencing rapid growth.

The company service area had a population in 1955 of 126,428 in an area of 87 square miles. All of the gas customers are also electric customers of the Merrimack-Essex Electric Company.

The total 1959 sales were 2,035,404 MCF of which 66.1 percent were to domestic customers, 9.5 percent to commercial customers, and, 24.3 percent to industrial customers.

The city of Lawrence was formerly a one-industry community, textiles being its predominant business. Following the war, however, a tremendous transformation has occurred, in which this area changed from one of the most depressed economic areas in the country to a thriving community of greatly diversified industry.

I might insert here that the gas and electric companies jointly and the NEPSCO industrial development department worked hard to help bring this change about. Electronics, communications equipment, plastic and rubber goods, paper and paper mill machinery, shoes, metal goods and textiles and textile machinery are some of the industries that now contribute to the well-being of the [733] communities served by the company.

Q. What are the company's most important physical properties? A. It has an oil gas plant and an L.P. air gas plant, 301 miles of mains, and a receiving station for taking gas from Tennessee.

The main office of the company is in downtown Lawrence in an office building owned and also occupied by Merrimack-Essex Electric Company. Storerooms, distribution, engineering, customer service, garage and the commercial and industrial sales department are located in other buildings

owned and occupied by Merrimack. The garage, customer service and stores are joint electric and gas operations.

Q. How many employees has the company? A. Lawrence Gas Company has a total of 148 employees, of whom 124 are fulltime.

Q. Will you state briefly the corporate history of Lynn Gas Company? A. Lynn Gas Company was organized in 1959 and on February 5, 1960 acquired the gas properties and franchises of Lynn Gas and Electric Company. Lynn Gas and Electric had been incorporated in 1853 as the Lynn Gas Light Company, and in 1888 had been consolidated with the Lynn Electric Lighting Company to create a combination gas and electric [734] company. In 1910 the Lynn Gas and Electric Company acquired the Marblehead Gas and Electric Company. Lynn joined the NEES system in 1957. Lynn Gas Company and its predecessors have rendered continuous gas service for 107 years.

Q. Please describe briefly the company's service area. A. The company serves approximately 41,000 customers in the city of Lynn and the towns of Lynnfield, Marblehead, Nahant, Saugus and Swampscott, and a portion of the city of Peabody.

Lynn is an industrial city; the remaining communities of the company's service area are principally residential. The company's service area is located in Essex County and covers approximately 41 square miles with a population, according to the 1955 census, of 156,169. 36,000 of the 41,000 customers served by Lynn Gas Company are provided with electricity by the affiliate Lynn Electric Company.

The total 1959 MCF sales were 1,698,403, of which 77.7 percent were to domestic customers, 15.6 percent to commercial customers, and 6.7 percent to industrial customers.

The economy of the area is dependent to a large extent upon the operations of the General Electric Company, four

of whose major departments have their headquarters in [735] Lynn and operate out of industrial buildings scattered throughout the city. In addition, other products manufactured in Lynn include incandescent and fluorescent lamps, shoes and shoe machinery, medicines, clothing, automotive and welding equipment, and bread and bakery products. There is also some small industry in Saugus. Route 128, Boston's circumferential highway, and Route 1 pass through Lynn Gas Company area and are important to the economy of the communities this company serves. Marblehead, Swampscott and Nahant are summer resort towns.

Q. What are the company's principal properties? A. It has an oil gas plant, 368 miles of mains, and a receiving station where it takes gas from Tennessee, all in Lynn. The gas plant adjoins the main electric plant of Lynn Electric, and electric production and distribution activities, gas production and distribution activities, and the service division personnel are at this location. The main office of Lynn Gas Company is an office building, which, together with a customer service building and a garage, all owned by the gas company, are used by both the gas and electric companies. The gas company leases a branch office store at Marblehead.

Q. How many employes has Lynn Gas Company? A. Lynn Gas Company had a total of 174 employes, of whom 165 are fulltime employes, at February 1, 1960.

[736] Q. Would you state briefly the corporate history of Mystic Valley Gas Company? A. On October 27, 1953 Malden and Melrose Gas Light Company acquired the gas properties of Suburban Gas and Electric Company, and Arlington Gas Light Company, and changed its name to the Mystic Valley Gas Company. Malden and Melrose Gas Light Company was organized in 1854. In 1856 it extended its mains into Medford, and in 1883 into other

surrounding towns. In 1912 it acquired by merger the property and franchises of Peoples Gas and Electric Company of Stoneham.

Suburban Gas and Electric Company was organized in 1895 as a combination gas and electric company in Revere and Winthrop. Arlington Gas Light Company was incorporated in 1854 to make and sell gas in what is now Arlington. In 1860 it was authorized to do business in Winchester and in Belmont. In 1933 it purchased the property and franchises of the Lexington Gas Company and the Woburn Gas Light Company. Malden and Melrose, Suburban and Arlington all joined the NEES system in 1931. This company has provided continuous gas service for 106 years.

Q. Please describe briefly the company's present service area. A. The company serves approximately 99,000 customers in 14 communities in an area of 102 square miles. The territory [737] served had an aggregate population of 437,133 people by the 1955 census.

Suburban Electric Company, an affiliate, provides electric service to 67,000 of Mystic's customers in Everett, Malden, Medford, Melrose, Revere and Winthrop.

Boston Edison Company, a nonaffiliate, provides electric service in Arlington, Burlington, Lexington, Stoneham, Winchester and Woburn, while Belmont and Reading have municipally-owned electric systems.

The service area of the company is predominantly residential with a sprinkling of heavy and light industry, the heavy industries principally in Everett and Malden.

The total 1959 sales to ultimate customers were 4,874,213 MCF. 77.6 percent of these sales were domestic, 11.0 percent were to commercial customers, and 11.4 percent were to industrial customers. In addition, 149,074 MCF were sold to the town of Wakefield for resale.

The principal products manufactured include petroleum

products, chemical products, machinery and metal goods, food products and electronic equipment and components.

Route 128, Boston's circumferential highway, passes through a part of this company's territory. Dozens of new plants have been built along this highway, and the products they manufacture range from missile system guidance equipment to packaged tea bags. Commercial establishments from [758] shopping centers to restaurants are spread throughout this residential and industrial area. Amusement facilities include the Revere Beach amusement area, a dog racing track, and a horse racing track are prominent in the territory.

Q. Will you describe briefly Mystic Valley Gas Company's most important properties? A. The company has an oil gas plant in Malden and L.P. air plants in Malden and Reading, storage holders in Malden, Arlington, Revere and Winchester, and 916 miles of mains. It has four receiving stations located in Malden, Arlington, Reading and Lexington for taking natural gas from Tennessee Gas Transmission Company.

The principal office of the company is in Malden, in an office building owned and also occupied by Suburban Electric Company. The company has other buildings in Malden.

A service order center for a portion of the company's territory and a garage are located in facilities owned by Suburban Electric Company in Malden, and operated jointly with the electric company. There are ten branch stores located at Arlington, Winchester, Reading, Stoneham, Woburn, Medford, Revere, Everett, Melrose and Winthrop. The first five of these stores are all gas, while the last five are occupied jointly with Suburban.

Q. How many employes has Mystic Valley Gas Company? [739] A. Mystic Valley Gas Company has a total of 401 employes, of whom 364 are fulltime.

Q. Will you state briefly the corporate history of North

Shore Gas Company? A. North Shore Gas Company was organized in 1953 to take over by purchase the gas properties and franchises of Beverly Gas and Electric Company, and by consolidation the gas properties and franchises of Salem Gas Light Company and Gloucester Gas Light Company.

Salem Gas Light Company was organized by a special act of the Massachusetts Legislature in 1847 to supply gas in the city of Salem, and was given the right to serve what is now Peabody in 1853.

Beverly Gas and Electric Company was organized in Massachusetts in 1859 as a gas company and authorized to do electric business in 1888. In 1911 it purchased Danvers Gas Light Company.

Gloucester Gas Light Company was organized in 1853 to do business in the town of Gloucester, and later it extended its service into part of the town of Rockport. Gloucester, Salem and Beverly all joined the NEES system in 1931. The company and its predecessors have thus been providing continuous gas service to customers for 113 years.

Q. Please describe briefly the company's service area.

A. The company has approximately 33,000 customers, and [740] operates in two divisions. The Salem division includes the cities of Salem, Beverly, Peabody and the town of Danvers. The Gloucester division serves the city of Gloucester and part of the town of Rockport. Approximately 24,000 of the company's customers are served electricity by the affiliate Merrimack-Essex Electric Company. Danvers and Peabody have municipally-owned systems.

The total franchise territory served comprises an area of 85.4 square miles and had an aggregate population by the 1955 census of 146,231.

The total 1959 MCF sales by the company were 1,638,676,

of which 71.1 percent were to domestic customers. 14.5 percent to commercial customers, and 14.4 percent to industrial customers.

The products manufactured in this area include leather and leather goods, electronic equipment and components, incandescent and fluorescent lamps, shoe machinery and metal products, cellophane tape, chemicals, and gelatin for film processing. The fish and fish processing industry in Gloucester and the summer tourist trade throughout the entire company area play an important part in the economy. Two major Massachusetts highways, Route 1 and Route 128, also contribute to the prosperity of this area.

Q. What are North Shore Gas Company's principal [741] properties? A. There is an oil gas plant in Salem and L.P. air gas plants in Salem, Danversport and Gloucester, and low pressure holders in Salem and Beverly, and high pressure Horton-spheres in Gloucester and Beverly. The company has 348 miles of mains and two receiving stations, one at Danversport for the Salem division, and one at Gloucester for the Gloucester division.

The main office of the company is located in downtown Salem, in an office building leased and also occupied by Merrimack-Essex Electric Company. The branch office of the Salem division is located in Beverly in a business block owned by the gas company. There are also two branch stores in Danvers and Peabody. The Gloucester division office is located in Gloucester in a building owned by the company and used jointly with Merrimack.

All functions of the distribution, utilization and stores groups are carried on at the Beverly plant. A garage which services both Merrimack and North Shore vehicles is located here. Merrimack has property directly adjoining this plant and a right-of-way through the company's property.

Q. How many employes has North Shore Gas Company?

A. North Shore Gas Company has a total of 152 employees, of whom 130 are fulltime employees of the company.

[742] Q. Now will you please outline the corporate history of Northampton Gas Light Company? A. Northampton Gas Light Company was incorporated in 1853. In 1935 it purchased all the property and franchises of Easthampton Gas Company. It joined the NEES system in 1931. Continuous gas service has been provided by the company for 107 years.

Q. Please describe the company's service area. A. The company serves approximately 8,000 customers in the communities of Northampton and Easthampton. The territories served include an area of 47.9 square miles and had an aggregate population, according to the census in 1955, of 37,969.

Electric service in Northampton is provided by the Northampton Electric Lighting Company, an affiliate of NEES, to approximately 5,800 of the company's customers. Western Massachusetts Electric Company, a nonaffiliate, provides electric service at Easthampton.

The two communities served differ from each other. Northampton is basically a college town. It has three large hospitals, and relatively little industry. Easthampton, on the other hand, contains substantial industrial activity.

Principal products manufactured include cutlery, optical instruments, plastics, batteries, rubber thread, [743] furniture and brushes. In addition, a large textile dyeing and finishing mill is a major industry in Easthampton.

The total MCF sales in 1959 were 466,767. 74.0 percent of these sales were to domestic customers, 13.6 percent to commercial customers, and 12.4 percent to industrial customers.

Q. What are Northampton Gas Light Company's principal properties? A. Northampton Gas Light Company has

an oil gas plant, 111 miles of mains, and one receiving station. It is expected that this oil gas plant will be replaced by an L.P. air gas plant at the receiving station during 1960. The company has holder locations in Northampton and Easthampton.

The main office of the company is in downtown Northampton in a building owned by the gas company which is also the principal location of activities and personnel of Northampton Electric Lighting Company. This location includes a three-story office building, a storehouse, and a garage, all of which are used jointly by the gas and electric companies. In addition, there are other buildings used for gas operations exclusively. All departments of the gas company work out of this location.

Q. How many employees has Northampton Gas Light Company? A. Northampton Gas Light Company has a total of 55 employees, of whom 38 are fulltime employees.

[744] Q. Now would you please state briefly the corporate history of Norwood Gas Company? A. Norwood Gas Company was incorporated in 1907. In 1908 it purchased all the property of Norwood Gas Light Company which had been organized in 1885 to do gas business in the town of Norwood. The customers of Norwood Gas Company have had continuous gas service since 1908.

Q. Briefly describe the company's service area. A. The company serves approximately 4,700 customers in the town of Norwood. Norwood is predominantly a residential community with one large manufacturer, a sprinkling of light industry, and nearly 200 retail establishments. The area served by Norwood Gas Company is approximately 10 square miles and had a population, according to the 1955 census, of 21,052. The Norwood Municipal Light Department provides electric service for the town.

The total 1959 MCF gas sales by the company were 281,000, of which 77.1 percent were to domestic customers, 16.4

percent to commercial customers, and 6.5 percent to industrial customers. The principal products manufactured in the area include composition shingles, floor covering, precision instruments, food products, paints, valves, books, and power equipment for switchboards. U. S. Route 1 bisects the town and Route 128 passes near it. In addition, an excellent airport provides a terminal for private [745] aircraft.

Q. What are the company's chief properties? A. The company has an L.P. air plant, 72 miles of mains, and a receiving station where it takes gas from Algonquin Gas Transmission Company. A garage for company vehicles and a plant office are located at the plant. The main office is located in the principal business area of Norwood in leased space.

Q. How many employes has Norwood Gas Company? A. Norwood Gas Company has a total of 39 employes, of whom 20 are fulltime employes.

Q. Mr. Dalbeck, will you briefly state the corporate history of Wachusett Gas Company? A. Wachusett Gas Company was incorporated in 1873 as Leominster Gas Light Company, to do business in Leominster. In 1951 it purchased the gas properties of Wachusett Electric Company in Clinton and Lancaster, which had been acquired from Clinton Gas Light Company in 1934, Clinton having been organized in 1854. Wachusett Gas Company and its predecessors have rendered continuous gas service in some areas, therefore, for 106 years.

Q. Reverting once more to the Norwood Gas Company, does the fact that Norwood purchases its gas from Algonquin affect its relationship to the other seven companies? A. No, sir, it does not. The only difference is that [746] their supplier is the Algonquin Gas Company.

It has an L.P. air gas plant as do many of our other companies, and benefits accrue to the Norwood gas plant

because of group purchasing of fuel, and the engineering assistance they obtain from the gas division office. Their operating procedures and practices are consistent with all the NEES gas companies, and they achieve economy and efficiency as a part of the NEES group of gas companies.

Q. Now, coming back to Wachusett, will you briefly describe its service area? A. The company serves approximately 8,000 customers in the city of Leominster and the towns of Clinton, Lancaster and part of Lunenburg. Worcester County Electric Company, an affiliate, provides electric service in Clinton, Lancaster and Leominster. Fitchburg Gas and Electric Company, a nonaffiliate, provides electric service in Lunenburg.

The communities served by the company are, for the most part, residential communities located in Worcester County in central Massachusetts. The company service area is approximately 88 square miles and had a population, according to the 1955 census, of 46,258.

The total 1959 MCF sales were 389,966. 83.7 percent of these sales were domestic, 11.6 percent were commercial, and 4.7 percent were industrial sales.

[747] The industrial prosperity of the area is dependent to a large degree upon the plastic industry and its associated lines. In the Leominster area the major industry is the production of plastics, plastic products and molds. Other industries in Leominster produce shirts, furniture and paper products. The principal industries in the Clinton area produce plastic-coated wire, plastic tile, books, flashlights, batteries and textiles.

Q. Please describe the company's chief properties. A. Wachusett Gas Company has an L.P. air gas plant and a storage holder in Leominster and another storage holder in Clinton. The company has 97 miles of mains and two receiving stations, one in Leominster and one in Clinton.

The main office of the company is located in Leominster, Massachusetts, in an office building leased by Worcester County Electric Company and also occupied by them. The gas company has a branch store in Clinton in a building owned by the Worcester County Electric Company and occupied jointly by them. A jointly operated stores department is located in a building owned by Worcester County Electric in Leominster. A second building owned by Worcester is used by Worcester and the gas company for a dispatching headquarters after working hours up to midnight. In addition, a combination garage and storage building in Clinton, which is owned by the Worcester [748] Company, garages a service truck of the gas company.

Q. How many employes has Wachusett Gas Company?

A. The Wachusett Gas Company has a total of 43 employes, of whom 27 are fulltime employes.

Q. Mr. Dalbeck, some of these companies have had a rather complex corporate history. Were the various mergers, consolidations, purchases and separations of gas and electric properties referred to in your description specifically authorized by any governmental agency in Massachusetts? A. Yes. In the early days of the industry, control of gas companies was exercised directly by the General Court of Massachusetts which is the State Legislature. The legislature incorporated companies by special act for the purpose of manufacturing and distributing gas. By amending the special act, the legislature sometimes authorized companies to extend their gas mains into new territory.

In the early days gas companies could only consolidate or merge by specific authorization from the legislature. In 1885 the legislature delegated to the Board of Gas Commissioners general supervisory powers over gas companies. In 1887 the board was empowered to authorize gas companies also to engage in the electric business. The

name of this board was changed to the Board of Gas and [749] Electric Light Commissioners in 1889 and its supervision was also extended to electric companies.

In 1908 the legislature authorized purchases and sales, mergers and consolidations of certain types of utilities upon a determination, in each case, by the Commissioners, after a public hearing, that the proposed transaction was consistent with the public interest. By a special act in 1919 the functions of the Board of Gas and Electric Light Commissioners were transferred to the newly created Department of Public Utilities, which is the present regulating authority in Massachusetts.

Q. Mr. Dalbeck, I now hand you a table entitled "New England Electric System-Gas Subsidiaries-Natural Gas Purchase Contracts" and ask you what it shows. A. This shows the location of take points and certain summary information about each NEES gas company's natural gas supplies. It shows for each company the gas supplier, the authorized daily quantity of gas under various service headings, and the termination dates of the company's present contracts.

Q. Was this table prepared under your supervision? A. Yes, it was.

Q. And does it accurately set forth the information it purports to show? A. It does.

[750] Mr. Quarles: I offer this table as Respondent's Exhibit 62.

Mr. Nowlin: No objection.

Hearing Examiner: Received.

(Respondent's Exhibit No. 62 was received in evidence.)

By Mr. Quarles:

Q. Next, Mr. Dalbeck, I show you a table "New England Electric System-Gas Subsidiaries-Gas Production Plants" and I ask you what it shows. A. It shows for each of the

gas production plants in the system the type of gas it produces and its daily capacity.

Q. Was this table prepared under your supervision?
A. It was.

Q. Does it accurately set forth this information it purports to show? A. It does.

Mr. Quarles: I offer this table as Respondent's Exhibit 63.

Mr. Nowlin: No objection.

Hearing Examiner: Received.

(Respondent's Exhibit No. 63 was received in evidence.)

By Mr. Quarles:

[751] Q. Now I show you a table entitled "New England Electric System—Gas Subsidiaries—Gas Purchased and Produced—1959" and ask you what it shows. A. This shows the amount of gas produced and purchased by each of the NEES system gas companies during 1959. It breaks down the purchased gas into two categories—general service gas and peak service gas. It also breaks down the gas produced into oil-gas and L.P. air gas.

Q. Was this table prepared under your supervision?
A. It was.

Q. And does it accurately set forth the information it purports to show? A. It does.

Mr. Quarles: I offer this table as Respondent's Exhibit 64.

Mr. Nowlin: No objection.

Hearing Examiner: Received.

(Respondent's Exhibit No. 64 was received in evidence.)

Q. Returning now to Exhibit 62, which has to do with natural gas purchase contracts, I note that the largest amount of gas contracted for is under general service, and that the supplier of most of the system companies is Ten-

nessee Gas Transmission Company. Will you please give a brief description of Tennessee Gas Transmission's [752] general service rate? A. Tennessee's principal general service rate is its G-6 rate which provides for a requirements contract under which the pipeline obligates itself to deliver all gas required by a customer company up to the maximum quantity authorized by the FPC. In the event that the customer requires a greater quantity than the maximum authorized, the pipeline company is obligated to use due diligence to secure authorization to deliver the greater quantity, and to install any needed increased capacity to enable it to do so.

The current rate for service under this contract consists of a monthly demand charge of \$6.15 per MCF for the highest day's consumption during the current month and the preceding 11 months, and a commodity charge of 36.1 cents per MCF taken.

Under this contract and all of Tennessee's contracts with our companies delivery is at a pressure elected by the buyer, but not in excess of 100 pounds per square inch. The Btu of the gas is required to be not less than 1000 Btu per cubic foot.

Q. Will you now describe briefly the Algonquin general service rate? A. The Algonquin general service rate is the F-1 rate. This is a contract quantity form of rate under which [753] a customer must estimate his maximum requirement and pay the demand charge for that amount starting on September 1 each year.

The current rate in effect since December 1, 1959 is a monthly demand charge of \$6.34 per MCF of contract demand and a commodity charge of 33.5 cents per MCF. This rate further provides that the pipeline need only deliver 270 times the maximum daily quantity during the whole contract year. The terms and conditions of Algonquin's tariff provide that delivery shall be at pressures

not less than 50 pounds per square inch guage. A minimum Btu value of 1000 Btu per cubic foot is required.

Q. What are the principal differences or advantages of one rate over the other? A. Well, the basic answer to which rate is preferable comes down to cost. At the present time the rates of the two pipelines are substantially the same. Whatever balance there may be, has been tipped over the past years each time one company or the other has filed a rate change.

As to the advantages in the terms of one rate over the other, these are mixed. For example, the Algonquin rate has an advantage in that it combines deliveries at all delivery points for billing purposes while the Tennessee rate requires separate billing for each delivery point.

In the case of a company such as Mystic Valley, [754] which has four delivery points, it is possible to get non-coincident maximum demands. In this event, the total demand charge paid by the company becomes higher than the greatest amount of gas used by the company on any one day. On the other hand, under the Tennessee rate, demand is based on the maximum day volume actually taken during the year ending with the current month instead of an estimate of a future maximum day requirement. This means that the Tennessee customers do not start paying for a new year's higher demand until that demand is actually taken whereas, under the Algonquin rate, Norwood has to begin paying for its new contract demand in September even though it may not use that demand until well into the winter. Also, Norwood pays for the contract demand which is an estimate containing a margin to avoid overrun penalties, and therefore usually is somewhat higher than actual maximum usage.

The Algonquin restriction of annual deliveries to 270 times the contract demand would be somewhat burdensome to a company that can sell all of its summer valley gas as

interruptible gas, as the Lynn and Central Massachusetts Gas Companies do.

Algonquin has an interruptible rate I-1 which has no demand charge and a commodity charge just one-half cent above the general service commodity charge. [755] This makes possible substantial sales of interruptible gas by companies that have a market for it. Unfortunately, Norwood does not have such a market. The corresponding interruptible rate of Tennessee is priced at the 100 percent load factor cost, or at the present time 56.3 cents per MCF, which effectively prices it out of the market. We could not sell any gas at that rate even it were offered.

Q. Mr. Dalbeck, do all of your companies buying gas from Tennessee take deliveries under the G-6 rate? A. No. Central Massachusetts Gas Company, for the Spencer division, and Wachusett Gas Company, for the Clinton division, buy gas under Tennessee's so-called small general service rate, its GS-6 rate. This rate, made available optionally to any customer company whose demand does not exceed 5000 MCF a day, is a flat rate for gas delivered, with no demand charge or minimum bill. The rate currently is 73.8 cents per MCF, which is equivalent to the G-6 rate at a load factor of slightly over 50 percent.

Q. Does Algonquin have a similar rate? A. No. We have tried to persuade Algonquin to provide a similar service to its small customers, but have not been able to get them to do it.

Q. You have described several forms of general service [756] rates and have mentioned interruptible service. Will you now describe briefly other forms of service? First, will you describe the interim service shown on Exhibit 62? A. Yes. The interim service is provided at the same rate as general service gas, but the interim contracts were just for this past winter and expire in October of this year. The reason for this is that for several years Tennessee

supplied peak-shaving service upon which these gas companies relied for part of their winter gas. It became apparent last fall that no similar service would be available this last winter.

The interim service was a means whereby New England gas companies which were forced into taking uneconomic demands this last winter, due to shortage of peak-shaving capacity, would be enabled to cut back those demands after they had installed additional peak-shaving capacity of their own. Next winter and in the foreseeable future all of our gas purchased from Tennessee will be under general service rates.

Q. What was the Tennessee peak-shaving service like?

A. It was a flat rate service offered by Tennessee at a price of 90 cents per MCF, designed to be used as a substitute for our own peak-shaving production. The price of this gas plus the qualifying clause requiring us to increase our billing demand for general service gas by [757] at least 10 percent each year was intended both to spur our house heating sales and to make some money for Tennessee that they otherwise would not get. Operating with this rate, we were allowed to take peak service gas on any day during the winter in a quantity up to 50 percent of the general service demand that we elected to pay for. The effect of this was that we had to peak shave with our own production on only two or three of the coldest days of the winter and then only to a very small extent.

Q. Why was this service terminated? A. Well, this service was supplied for 4 years under a temporary Federal Power Commission authorization, each year pending final determination. The FPC refused, during 1959, to grant permanent authorization. Tennessee applied for another form of peak service during 1959, but when it became apparent that this would not be approved in time for the 1959-1960 heating season the New England companies had

to withdraw their support of this application and requested the interim service which I have just described. The opposition to this type of service came chiefly from the Columbia Gas System, another Tennessee customer which has natural gas storage facilities of its own which enable it to take all its gas at a substantially 100 percent load factor.

[758] Q. Is the elimination of peak or storage service a serious blow to the New England companies? A. Yes, it is. We estimate that elimination of this service will cost the NEES system gas companies about \$500,000 per year.

Q. What is the winter service under which Norwood Gas Company buys from Algonquin? A. This is a form of peak-shaving service which Algonquin has offered for the past two winters. It is designed to be a substitute for the company's own peak-shaving in some measure and has been supplied under temporary authorization from the Federal Power Commission.

The permanent service is the subject of hearing at the present time. The service provides, in effect, for a maximum winter quantity, with a minimum take or pay for 60 days' use of the maximum winter quantity. The price for this gas as applied for is 87.5 cents per MCF. This last winter temporary authorization was granted at 96 cents per MCF. It is not now known whether this service will be permanently approved or what the price will be if it is.

Q. Mr. Dalbeck, will you please describe the emergency service which appears on Exhibit 62 as under contract to Mystic Valley Gas Company? A. Algonquin's main line runs through Mystic Valley's [759] territory, and at one point it is within a few hundred yards of a main high pressure trunkline of Mystic Valley. It seemed to us that good judgment called for a connection for use in case of emergency. We paid for the connection and pay a monthly rental for its operation and maintenance.

Algonquin is obligated in case of emergency to deliver

up to 1000 MCF per hour if it can do so without jeopardizing service to its own firm customers. Incidentally, this connection was used two years ago when Tennessee had a break on their line out in New York State. Tennessee backed off on deliveries directly to Mystic Valley and delivered gas to Algonquin in New Jersey for delivery to Mystic Valley for Tennessee's account.

Q. How does the FPC regulate your gas supply contracts? A. Basically in two ways. First, the pipeline company cannot supply any service without a certificate of public convenience and necessity. This has to do with the amount of gas the pipeline company is authorized to contract to deliver us. Secondly, the FPC has jurisdiction over rates. The contracts do not fix rates, but provide for service at rates to be established from time to time. These rates are filed by the pipeline company subject to hearing and approval by the FPC.

[760] Q. Turn now from natural gas to manufactured gas. What kind of manufacturing facilities do the NEES companies have? A. These are all set forth in Exhibit 63. Today there are just two kinds of plants. The oil gas plants make gas from No. 2 oil, the L.P. air gas plants simply vaporize liquid propane and mix it with air in the amount required to make it compatible with natural gas.

Q. Are these plants of the same type as those which were in use by the NEES system companies prior to the advent of natural gas in New England? A. No, not quite. Prior to the advent of natural gas these companies made and sold gas with about half the heat content per cubic foot of natural gas. Changing to natural gas required a change-over of appliances for use of the richer natural gas. The old manufactured gas would be incompatible with natural gas, and therefore manufacturing facilities had to be converted also.

The oil gas plants were all in existence prior to 1952,

but they produced water-gas, and it was relatively easy to convert them for oil gas manufacture. Most of the L.P. air gas plants, on the other hand, are new since around 1952.

Mr. Nowlin: May we have a short recess?

Hearing Examiner Ewell: Yes. We will recess [761] for ten minutes.

(Whereupon, a short recess was taken, after which the hearing was resumed.)

By Mr. Quarles:

Q. Mr. Dalbeck, just before the recess, we were talking about the manufacturing facilities, and you were mentioning some of the plants. For what purpose were these plants built or converted? A. At the time of conversion to natural gas in 1951 and 1952, we were connecting up to a new, untried pipeline from Buffalo east, approximately 500 miles. It was a single line with two major river crossings. We considered it prudent to provide backup production in case this unseasoned single line might experience a failure that would cut off our gas supply. Consequently, we converted our existing Water Gas plants to Oil Gas and in some cases installed new L.P. Air gas plants. The plants are now assuming a second important function in peak-shaving.

Going back to the natural gas purchase contracts and rates of Tennessee, and its predecessor Northeastern Gas Transmission Company in New England, the rates provided that for a three-year development period the monthly billing should not exceed the 70 percent load factor cost for gas used.

Accordingly, in the first two winters it was not [762] necessary to use our production plants for substantial peak-shaving. During the third winter the plants were used for peak-shaving.

Then in 1955 Tennessee offered its peak-shaving rate to be used as a substitute for peak-shaving by manufacturing.

Thus it continued to be uneconomical to operate our own plants except on a few extremely cold days during a winter. This last winter, without either the development period rate ceiling, or the peak-shaving rate, we have come into the period of what is apparently going to be our normal operation of production plants. With a normal winter we would have expected to operate approximately 30 days. Since it was a relatively mild winter we had to produce gas in most companies on fewer days than that.

Q. What determines whether you buy natural gas or produce your own gas? A. Economies. Our own production plants at present prices of propane and light oil can produce gas at an incremental cost in the range of \$1.65 to \$1.70 per MCF of 1000 Btu equivalent gas. Tennessee's G-6 rate is \$6.15 demand charges and 36.1 cents per MCF commodity charge. Our companies have a firm gas load factor in the range of 40-50 percent. The maximum day sendout is more than double the average day sendout and four to five times the minimum sendout. The Tennessee rate works out so that if more gas [763] is taken on one day of the winter than any other, the excess gas on that day costs \$74.16 per MCF. It is obviously cheaper to make gas at \$1.70 per MCF than to buy gas at \$74.15. The balancing point at which producing gas and buying gas are equal in cost works out at about a 38-degree day. In other words, it is cheaper to produce gas to provide for excess requirements above 38-degree days on any day.

Q. Are your production plants the most economical method of peak-shaving? A. They are, for our companies under present circumstances. The most economical method would probably be underground storage of natural gas in a worked-out gas field, if there were one in our area. Off peak pipeline gas could be compressed into it and withdrawn again on peak days. If we could find a so-called watersand that could be sealed, such as the Herscher Dome

development of Peoples Gas Light and Coke Company that could be developed and used in the same manner, this would be the next best.

However, the geologists give us no hope of finding such formation in New England. We are not as fortunate in that respect as the Appalachian area or much of the mid-continent area or California. In some areas nearer to the gas fields the ratio of demand charges to commodity charges is much lower and customers simply purchase all the gas that they need.

[764] Conventional above-ground storage of natural gas is prohibitively expensive. Therefore, we are presently forced back to producing gas. Presently proved types of reasonably interchangeable gas are oil gas and L.P. Air gas such as we have. Our oil gas plants use light oil and make a relatively expensive gas. Oil gas can be made from heavy oil at a much lower incremental production cost, but this requires a much greater investment in plant. It would require a much greater volume of annual production than we have to justify this greater investment. We are studying several possibilities of more economical peak-shaving—lower cost substitute gas, larger volume storage of propane and liquified natural gas. In the meantime, we are using existing facilities to the full, and adding production capacity where required in the form of L.P. Air gas which has the lowest capital cost.

Q. What is the source and supply of your gas making fuels? A. The two fuels we use are a light oil—No. 2 for making oil gas, and liquified propane for making L.P. Air gas. These are both supplied by our competitors, the oil companies. Light oil, so far, has been in plentiful supply. We maintain storage equal to about two thirds of the estimated winter's requirements, which allows us to get the low summer price on most of our requirements without incurring [765] excessive fixed charges on storage.

Propane is obtained mostly from the East Coast oil refineries; we have obtained some from midcontinent suppliers on occasion. We are set up to take delivery either by tank truck or by rail at most of our plants and we maintain storage equal to about two thirds of our winter requirements, filling up during the summer at low prices.

Our fuel requirements for all of the Gas Division companies are pooled for purchasing, which is done by the Service Company, and the large volume makes it possible and attractive for suppliers to make arrangements favorable to us for assuring some winter deliveries that enable us to operate on lower storage capacity of our own. This has been particularly valuable for the smaller companies, which, buying separately, could not hope to obtain this service except at an exorbitant premium.

Q. I show you now a brochure entitled "Description of Production and Distribution Facilities of NEES System Gas Companies". Was this brochure prepared under your supervision? A. Yes.

Q. What does it show? A. It contains a textual description of the production and storage facilities and the distribution systems of each of the NEES system gas companies.

[766] Q. Is the information set forth in this brochure true and accurate? A. Yes.

Mr. Quarles: I offer this brochure as Respondent's Exhibit No. 65.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondent's Exhibit 65 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Now I would like to return to the question of NEES system organization in connection with the gas business. Mr. Webster testified that the NEES system Gas Division was created in 1952. Will you describe briefly the condition

of the NEES system gas companies prior to 1952? A. In the years prior to World War II the gas operations showed a modest growth and enjoyed fair earnings. The gas companies made 528 BTU gas at a cost of 30-40 cents per MCF. The house heating market was just beginning, and new business could be taken on at a profit. During the war years, earnings held up fairly well, even though costs started climbing. The five year period 1947-1951, however, was the low point of the gas business in New England. With the removal of price controls after the war, the cost of [767] gas-making oils and coal rose sharply. This raised the cost of gas in the holder from the range of 30-40 cents per MCF pre-war to 60 cents in 1947, 70 cents in 1948. Obviously, with those costs of gas it was no longer possible to sell gas for house heating for 50 cents per MCF. With wages and taxes up too, there was only one thing the gas companies could do—raise their rates drastically. This was done in 1947 and 1948. But the increased rates they had to charge to cover their increased costs, tended to price them out of the competitive market for house heating as well as most commercial and industrial uses, and the gas companies not only stopped growing but began actually to lose customers.

While the rate increases of 1947 and 1948 lifted earnings out of the red where they had been in 1947, it was only a temporary relief. Squeezed between inflationary increases in costs and inability to increase sales, earnings again started to decline, and the gas business was depressed.

Q. What if anything happened to relieve this situation? A. In 1948, plans started to crystallize to bring natural gas to New England from the Texas Gulf Coast. By the end of 1949 two major pipeline companies, Tennessee Gas Transmission Company and Texas Eastern Transmission Corporation had applications on file with the Federal Power Commission to bring Texas gas to New England. Ten-

nessee [768] proposed to deliver the gas through a wholly-owned subsidiary, Northeastern Gas Transmission Company, and Texas Eastern proposed to make deliveries through Algonquin Gas Transmission Company, a company to be owned by Eastern Gas and Fuel Associates, New England Gas and Electric Association, and Texas Eastern. Hearings started before the Federal Power Commission in the spring of 1950 on the applications of both companies.

NEES backed the Tennessee application because it was believed that Tennessee would get natural gas into New England more quickly and because Tennessee proposed to serve a wider area in New England.

After a bitter fight, the Commission decided the case by splitting the market between the two applicants. Tennessee-Northeastern obtained a certificate late in 1950 and Texas Eastern-Algonquin finally obtained its certificate in 1953. All of the Massachusetts gas operations of NEES, except Norwood Gas Company, received their gas supply from Tennessee-Northeastern.

Q. What did the coming of natural gas mean to the New England gas companies generally? A. The coming of natural gas to New England was not in itself the salvation of the New England gas companies. It gave them a supply of gas in their holders at about half of the cost of manufactured gas, but this particular [769] saving was just about offset by the fixed charges on capital investments for gate stations, pipelines to bring the gas to distribution centers, and peak-shaving or standby production plants; the amortization of the cost of converting the myriad of customers' appliances from manufactured to natural gas; and the heavy maintenance necessary to control leakage of dry natural gas from mains that had been distributing wet manufactured gas. Therefore, if there had been no change in sales the conversion to natural gas would have just about paid for itself.

Natural gas did, however, give the gas companies a "hunting license". The lower cost of gas made it a product that could be sold at a profit to a greatly expanded market, and it was cleaner and more uniform in quality. Natural gas at 1,000 Btu per cubic foot in effect nearly doubled the capacity of the distribution systems as compared with the heat units they could distribute in the form of manufactured gas at 528 Btu per cubic foot.

Q. What particular problems were involved in the change-over from manufactured gas to natural gas, besides those arising from the need and opportunity to expand sales?

A. First, there was the problem of conversion of customers' appliances from the old Btu gas over to the new level which required an adjustment of every gas burner on our system.

[770] Another major management problem resulted from the reduction in production personnel caused by the closing down of gas plants.

There were in the plants of our companies about 230 employees in production departments and steps were taken in advance of the closing of plants to insure that employees would be continued in work in other departments without layoffs.

For almost a year only temporary help was employed in those jobs in distribution, service, office and utilization that might be filled by production employees. Other new jobs also became available in the system as a direct result of the changeover, and where possible these new positions were reserved for displaced production personnel.

Furthermore, our association with the electric companies helped in that 27 of these employees were absorbed by the electric side of the business. As a result of careful, long-range planning, cooperation with the unions, particularly where seniority was involved, and expanded activities in other departments, the 230 production employees were

either placed in other departments or retained in the plants with no individual being required to sever employment.

Q. How did the coming of natural gas bear on NEES and its decision to organize the Gas Division? A. It was obvious under the circumstances I have [771] related, and with the many other problems peculiar to the gas business, particularly with the advent of natural gas, that the best interests of both the NEES stockholders and gas customers would be served by concentrating in one group the sole responsibility for gas operations.

It was therefore decided to establish a separate gas management organization within the NEES system right from the local companies up to a central organization to handle problems common to the several gas companies. To the extent that there were substantial savings in joint use of buildings, customer accounting, general accounting and other activities, joint operation with electric was maintained. But system planning, engineering, negotiation for gas purchases, and other problems of the gas business, and especially all activities relating to sales promotion, were to be turned over to a new organization whose sole responsibility would be for gas. The Gas Division was established in March 1952, consisting of management and engineering personnel, with an office of its own at Malden. Furthermore local management of gas and electric operations was separated, each gas company being assigned a local manager whose sole responsibility was for gas.

Q. Now, Mr. Dalbeck, I want to turn to the organization of the Gas Division, at Gas Division headquarters at Malden. You are the chief officer there? [772] A. Yes.

Q. And what is your official title? A. I am the president of all the NEES system gas companies.

Q. Who pays your salary? A. Each company pays a portion of my total salary.

Q. Who are the key personnel in Gas Division head-

quarters who report to you? A. The Gas Division headquarters staff is divided functionally into four general areas of responsibility; management, marketing and supply, operations and merchandising. The key people reporting to me are the four people in direct charge of these areas.

Q. Please describe the duties of the assistant in charge of management? A. One Assistant to the President performs management functions. He is the responsible executive in my absence. He also works closely with individual company managers and superintendents on matters of common policy to the Gas Division such as employee education and personnel organization, public relations, gas appliance approval and selection, municipal tax and legislative matters, real estate and property problems, and inventory controls.

Q. Who is in charge of marketing and supply? A. Another Assistant to the President. He works with [773] gas company managers on matters concerning sales estimates, earnings estimates, rate matters, new business expense budgets, new markets for gas, general statistics, and builder and dealer sales activities. He also assists the company managers in commercial and industrial sales and advises them on special contracts for industrial gas sales for both firm and interruptible gas. He represents the local Gas Division companies on matters involving gas purchased from pipeline companies, negotiations with these pipeline companies, and the handling of both certificate and rate phases of gas supply before the Federal Power Commission. He also represents the gas companies on rate matters before the Massachusetts Department of Public Utilities. He serves on industry committees having to do with supply matters throughout the entire New England area.

Q. Who is in direct charge of operations? A. An As-

sistant to the President for operations. His functions include gas production, distribution, utilization, engineering, and construction. He works very closely with the company managers on the preparation of capital budgets, on the acquisition and training of operating personnel, on controlling operating costs and in the labor relations field. He continually assists the company managers and superintendents on all operating matters, policies, procedures, safety methods and training. He, or members of [774] his group, represent the gas companies on industry committees working with the Department of Public Utilities and other state agencies on matters relating to gas operations, such as the establishment of safety regulations. He also supervises two engineering groups headed by a Coordinating Engineer and a Gas Engineer.

Q. Who is in direct charge of the fourth area that you mentioned, merchandising? A. The Sales Promotion Manager. He works very closely with our outside advertising agency used by all of the Gas Division companies in developing advertising and market research programs and layouts to support the promotional sales activities of the local companies. He works with the company managers and sales managers in determining appliance sales quotas, sales campaigns, salesmen bonus plans, and all local promotion activities. He develops overall Gas Division promotional and advertising expense budgets and is responsible for the preparation and publication of Gas Division appliance sales statistics. He also works with non-affiliated gas companies in the New England area for the promotion of the use of gas throughout the region, and he serves on committees formed for this purpose.

Q. Who pays these persons' salaries? A. All Gas Division personnel are part-time employees of each of the Gas Division companies.

[775-8] Q. You said the Assistant to the President for

operations supervised the groups headed by a Coordinating Engineer and a Gas Engineer. What does the Coordinating Engineer do? A. The Coordinating Engineer is responsible for production and distribution operating procedures. He investigates new gas production processes and advises on their use in any of the Gas Division companies. He also investigates new distribution materials and techniques and discusses them with company managers and superintendents. He assists in the preparation of capital budgets and makes studies for the local managers of their operating and maintenance costs. He also supervises the work of the planning, production, distribution and utilization engineers.

Q. What is the function of the Planning Engineer?

A. The Planning Engineer studies continuously the distribution system in each of the local Gas Division companies. This Planning Engineer has a Mellroy Fluid Network Analyzer available to him at Tufts University in Medford, Massachusetts, which helps him to advise local company managers and superintendents as to what additions or changes should be made to their distribution systems in order to insure an adequate gas supply to customers. Planning further requires developing long-range studies of population trends, customers, and gas load as they relate [779] to the distribution system capacity requirements in each local company. These studies are invaluable to local managers and superintendents to insure that each company's distribution system will be adequate to handle future gas loads and that additional distribution capacity will be installed at the right time in the most economical manner.

Q. What does the Production Engineer do? A. He serves as an advisor to production superintendents in each of the local companies. He determines peak-shaving levels which are the basis on which local production plants are operated

and natural gas is contracted for. An important function of his is to be certain that all gas production plants after being shut down all summer and the fall are in good operating condition for winter production and that production personnel are well trained. He makes continuous studies of new production materials and methods, and passes this information along to the superintendents. In addition, he is able to coordinate the purchase of gas-making fuels for all of the companies, resulting in economies due to bulk purchasing.

Q. What is the function of the Distribution Engineer?

A. The Distribution Engineer assists the local company superintendents in gas leakage surveys and methods of leakage control. He investigates leakage survey companies and recommends their use to local managers. Also, he keeps [780] abreast of leakage control techniques and makes studies as to the feasibility of their use, and assists the distribution departments of the local companies by investigating new distribution materials and tools; and recommends which would be the most beneficial. He maintains records of gas pipe inventory in each local company and recommends to the company superintendents the level of inventory which should be maintained.

In addition, he coordinates the purchase of pipe by all companies, which results in economies through bulk purchasing. Also, he studies and advises with respect to procedures for mapping of distribution systems.

Q. What are the duties of the Utilization Engineer?

A. He operates a servicemen's training school in Malden where he conducts classes on a regular scheduled basis for servicemen of each of the local companies. He is chairman of a committee of utilization superintendents which tests all new gas appliances to be sold and passes on their technical qualities. All appliances which are purchased by Gas Division local companies first must be ap-

proved for safety and quality by this Committee. He experiments with new testing equipment and appliance service tools and is able to advise each utilization superintendent as to their usefulness to the local servicemen. One of the most important functions of the Utilization Engineer is the study [781] of local plumbing and building regulations in each company area, and advising the local utilization superintendents as to the procedures which must be followed in order to comply with these local regulations.

Q. You also mentioned a Gas Engineer reporting to the Assistant to the President for Operations. What are his duties? A. He has a staff of engineering personnel under his supervision who work for the local gas companies upon request in a manner similar to the engineering groups provided by the Service Company for local electric companies. These engineers design, engineer, and handle the construction of major feeder mains, regulator stations, buildings, L. P. Air Plants and additions thereto and all major construction which are beyond the capabilities of the local companies to handle. These engineering personnel also provide service upon request to the local companies in arranging for and scheduling maintenance on gas storage holders. They also are present in the starting up and testing of production facilities each fall. They provide expert testing and maintenance service on gas instruments and telemetering equipment at this time.

Q. I show you now a map entitled "New England Electric System Gas Companies—showing principal offices and lines of management responsibility with representative travel time to division and central headquarters." What does this show? [782] A. This map shows the proximity of each local company's office to the Malden Gas Division office. The Gas Division Headquarters office in Malden is seven miles from NEES System central office in Boston or about a 25 minute drive. Seven miles northeast of the

Gas Division Headquarters, a 25 minute drive, is the central office of the Lynn Gas Company, whose area is adjacent to the Mystic Valley Gas Company area. Eleven miles northeast of the Gas Division Headquarters is the main office of the North Shore Gas Company in Salem, a 35 minute drive. Twenty miles north of Gas Division Headquarters is the central office of the Lawrence Gas Company located in Lawrence, Massachusetts, a 40-minute drive. The Norwood Gas Company's main office is located seventeen and one-half miles south of the Gas Division office in Malden and is about a one hour drive.

Thirty-six miles west of Gas Division Headquarters is the main office of the Wachusett Gas Company located in Leominster, one and one-quarter hours from Malden. The Central Massachusetts Gas Company's main office is located in Webster, which is a one and one-half hour drive, or forty-eight miles, from Gas Division Headquarters in Malden. The Northampton Gas Light Company is located eighty miles west of Gas Division Headquarters, but this is still only a two and one-half hour drive.

Q. Was this map prepared under your supervision?
[783] A. Yes.

Q. Does it accurately set forth the information it purports to show? A. Yes.

Mr. Quarles: I offer this map as Respondent's Exhibit No. 66.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondent's Exhibit No. 66 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Do you consider that the area served by these companies is so large as to impair efficient operation? A. I do not. Considering first our four large companies, the area they serve is about 75 percent of the size of the area served

by the Boston Gas Company. Considering all of our companies, the so-called Tenney Group manage companies from their office in Boston that are much farther from their office than ours. For instance, Springfield Gas is about the same distance from Boston as is Northampton. To the south, Brockton Taunton Gas is farther away than Norwood and, to the west, Fitchburg Gas and Electric is beyond Wachusett. To the north, they manage companies above Lawrence Gas in New Hampshire.

[784] I can leave my home in the morning, go to our farthest company, which is Northampton, transact such business as I need to and return after lunch, being in my office by mid-afternoon. None of our managers need be away from their office a full day to spend time in our Division office in Malden.

As a result of being able to reach any of our companies within a reasonable driving time, efficiency of operation is obtained through the ability of our whole organization to effectively service and advise on any problem that may arise in a local company.

Q. Now I want to turn to the organization of each of these local gas companies. You said you are the president of each company, and I understand that Mr. Hanson in Boston is the treasurer of each company except Lynn. Who is the top executive located in each local company office?
A. Each company has a vice president and general manager who is in immediate charge of the company and its office.

Q. To whom does he report? A. He reports to me as president of the company.

Q. How are the local companies organized? A. Each company is organized by departments reporting to this vice president-manager, including a production department, a distribution department, a utilization department and [785-6] a sales department. The treasury department

is part of a NEES System Treasury Organization, which handles gas and electric treasury operations jointly.

Q. What are the overall responsibilities of the vice president-manager of each company? A. The vice president-manager has direct responsibility for the production, distribution, utilization, merchandising, sales and public relations activities of his company. He also consults with the treasury representatives who serve his company on treasury and accounting problems and they work out their problems together.

Q. What are the functions of a production department in a local company? A. The responsibility for providing an adequate day-to-day supply of gas in each company falls to the company's production department. The production department is concerned with taking gas from the pipeline, manufacturing gas when required, and storing gas until it actually enters the distribution system. A superintendent generally heads up the production department in Gas Division companies. The overall planning and operations concerned with the purchasing, metering of purchase, manufacture, and storage of gas is the responsibility of the superintendent in charge of the production department.

Q. What are the functions of a distribution department? [787] A. A distribution department has responsibility for a company's distribution system by which it delivers gas from its purchase, manufacturing and storage facilities to its customers. The distribution system consists of underground gas mains, gas services and related equipment. A considerable amount of engineering must be applied to this distribution system, in order that it be maintained in first class condition and that it be continuously expanded to handle growing gas loads.

Now, the distribution department must plan and build distribution facilities for new load, in new and old areas, inspect and maintain the present system and keep track

of pressures throughout the system in order to catch and correct malfunctioning or overloading.

Q. Who is in charge of a distribution department?

A. A superintendent is responsible for the proper operation of the distribution department. In small companies he may have other responsibilities as well. This superintendent generally has technical personnel assisting him and calls on the Gas Division on involved engineering or operational problems.

Q. What functions in a gas company's operations are performed by the utilization department? A. The installation and maintenance of proper metering facilities and of customer gas appliances is the responsibility [788] of the utilization department. This department is sometimes called the service department.

Q. What do you mean by proper metering facilities?

A. Gas meters vary in size according to the amount of gas which must pass through them and be measured in order to serve a customer's needs. The utilization department is responsible for the proper sizing and installation of these gas meters. State laws require that gas meters will be replaced and tested on a regular schedule. This continual meter test program is a part of the function of a utilization department.

Q. What takes most of the time of a utilization department? A. The major portion of the work that is done by the utilization department consists of servicing customers' appliances. Although gas appliances are relatively trouble-free, service on them is required from time to time and occasionally parts must be replaced. Utilization department personnel are trained in the servicing of all types of gas appliances and equipped with vehicles and tools in order to handle all types of service problems. Facilities are maintained by the utilization department through which calls requesting service are received and dispatched.

Adequate stocks of repair parts and supplies are ordered by the utilization department.

[789] Q. Who is in charge of utilization department?

A. A superintendent of the department in the larger companies, or the general superintendent in the small companies.

Q. Who is in charge of a local company sales department? A. Generally a sales manager. In the smaller companies the vice president and manager himself acts as sales manager. In every company, sales is a very major concern of the vice president and manager even though a sales manager may have direct responsibility for the department.

Q. What generally does a sales department do? A. The domestic sales department in each of the NEES gas companies is actively engaged in selling and promoting domestic gas appliances. The purpose of these appliance sales is primarily to build gas load rather than to make a merchandising profit. Commercial and industrial customers and prospects are approached by company sales representatives promoting the use of gas. We do not sell them appliances but we do work with them and manufacturers' representatives to engineer installation of gas consuming devices. Each gas company also has personnel who maintain relations with appliance dealers to encourage sales of appliances by them which also helps to add gas load to a company's sales.

Sales training courses for personnel, incentive pay plans, advertising in newspapers, on television and radio and home service activities are all part of the [790] overall sales promotion efforts of a local gas company. Sales stores are maintained by each company where appliances are displayed and demonstrated. Continuous active work in the sales field is a tremendously important phase of each company's activity.

Q. Mr. Dalbeck, you explained what each of the various departments in the gas companies do. Can you describe briefly the organizational relationship between them?

A. The various departments which make up the whole of my NEES affiliated gas company are generally supervised by department heads. The personnel of these departments answer to these department heads. The overall responsibility of these various departments, however, falls to the vice president-general manager of each company who reports to me as president of the company.

I am responsible to the Boards of Directors of each company, and to the NEES System Vice President for management. The day-to-day decisions in the operation of each of the departments of the gas company are made by department heads. They, however, keep the manager informed of their activities and rely on him for advice and guidance in the performance of their supervisory duties. He, in turn, consults with Gas Division headquarters when he feels that he needs help from higher authority. Of course, as has been indicated before, the purpose is to operate these [791] companies as efficiently as possible, not to follow an organization chart for its own sake, and there is a lot of consulting and advising which does not and should not follow formal lines.

For example, my assistants at the Gas Division headquarters receive lots of calls for advice or assistance which do not come through me.

Frequently department superintendents will seek technical advice from Gas Division headquarters, and there is no rigid requirement that they go through their vice president-general manager, or through me, except where good judgment indicates they have a problem of which we should be made aware.

Furthermore, the same sort of thing is true in our relationship with NEES system headquarters in Boston,

particularly with respect to service company contacts. Where it will be the most efficient thing to do, any of my assistants in Malden, or the managers or other personnel of any of the local companies call Boston directly for advice or assistance. The organization chart, or any description of the organization, shows clearly the formal vertical lines of authority that exist, but fails completely to depict or suggest the multiplicity of cooperative contacts between people at all levels which is governed by the daily judgment of individual people.

[792] Q. You mentioned service company contacts, Mr. Dalbeck. I think this would be a good time for you to summarize New England Power Service Company's services for the gas companies. What, in summary, are those services? A. I think I can answer that question best by referring back to Respondent's Exhibit No. 53, the NEES system functional organization chart. As you will recall, the service company functions are represented on this chart by boxes just above the middle of the chart reporting directly to system vice-presidents.

Q. All right, starting at the left this time on that exhibit, which boxes indicate services performed for the gas companies? A. We make no use of the services under the vice-president for system planning, and comparatively little use of the people under the vice-president for electric engineering and operations, except for purchasing, since most engineering is done by people on the Gas Division Staff at Malden. This arrangement is natural since gas and electric engineering involve very different problems, and it is most efficient to maintain separate staffs for these functions. However, we do call upon the service company engineers for such things as right of way negotiations, tax valuations, drafting and photostating, which are not peculiarly related to the electric business; and for help in maintenance on [793] holders and other gas maintenance

and installation of electric components in new telemetering and L. P. Air gas installations.

Q. What does the Purchasing Department do for the gas companies? A. All purchasing except local or emergency purchasing is actually done by the service company. This includes all fuels, appliances, pipe and fittings, equipment and all other materials used by the gas companies.

Q. Coming to the blocks under vice-president and treasurer, these represent more service company functions, do they not? A. Yes, sir.

Q. What about the blocks from Central Region Treasury Representative down? A. These are the District Treasury Organizations. They handle all the day-to-day treasury and accounting functions for the gas companies. However, that is apart from the Service Company.

Q. What in summary are the functions performed for the gas companies by Service Company personnel in the treasury area? A. Officers and employees of the Service Company are requested to supervise the local accounting departments, prepare statistical reports of all kinds, review or prepare and file necessary reports with all regulatory bodies, including the Securities and Exchange Commission, the Federal [794] Power Commission, and the Department of Public Utilities and prepare statistical data for trade associations and investment services.

The internal auditors, who make the annual audit, are available for other special assignments. The Systems and Methods Department which is constantly working on new and improved procedures and which supervises changes in accounting systems as they are made, is another phase of the Service Company operations important to the gas companies.

The Tax Department handles all tax matters for the gas companies, and this includes state franchise and federal income, social security, withholding and all other taxes.

The Insurance Department handles all insurance matters, including property, workmen's compensation and public liability, transportation, boilers, group and pension plans insurance. While the Tax Department handles social security from the point of view of liability of the companies to pay, the Insurance Department concerns itself with the employee angle, such as interpretation, death claims, filings at retirement, and so forth.

The Insurance Department reviews the companies' insurance policies and property changes to determine the best insurance in the light of changing situations, both in the companies and in the field of new insurance [795] availability. The Service Company, at our request, also supervises all property accounting, reviews reports of fixed capital prior to filing, and represents the companies in studies and investigations by the Department of Public Utilities of plant and property.

Q. Moving over now to the blocks under the vice president for management, I believe you said you had contacts with the Service Company under each of these blocks except the top two, "Electric Sales Promotion" and "Distribution Coordination". What does the Service Company do for the gas companies in connection with rates? A. The Gas Division and the gas companies work very closely with the Rate Department of the Service Company. Although our Assistant to the President in charge of marketing has overall jurisdiction of rates in the gas companies, because of his many other duties, we have to request the Rate Department of the Service Company to handle many of the details affecting our rates and rate changes.

Furthermore, the Service Company has experts who constantly review rates in relation to other companies, provide us with comparisons with other companies in the form of statements and schedules, do all of the work of revising rates, of testifying on rates before the Department

of Public Utilities and of maintaining continuous contact with the Department of Public Utilities staff on rate matters.

[796] Q. What services do you call upon the Service Company for in connection with labor relations? A. Here again, although the Assistant to the President in Charge of operations is responsible for labor matters, the time that he can spend makes it impossible for him or anyone else in a gas company to become thoroughly familiar with all the ramifications of labor law and its relation to our employees.

Accordingly, we call on the Labor Department constantly for advice and help where in our dealings with employees our union contracts may be affected. The Labor Relations counsel advises and consults with the negotiating committee during contract negotiations, and prepares and reviews all labor contracts. He also represents any gas company involved in arbitration proceedings or grievance procedures that cannot be settled at the local level.

Q. Describe the services rendered under Personnel? A. The Personnel Department works closely with the gas companies, particularly in the area of employee recruitment, placement, training and transfer. We consult with them constantly when we require new men at the supervisory level and their advice and the aptitude testing that they supervise enable us to place and advance our employees properly in the best interest of the company and the employee.

Q. Will you describe the medical services requested by [797] and performed for the gas companies? A. All new employees are subject to physical examination, and while this is done in our outlying companies by local doctors, we request the NEPSCO Medical Department to review all examinations. On a company close to Boston, such as Mystic Valley, they do the examination. In those companies

that provide part time in-plant nursing service, the Medical Department supervises and standardizes procedures. The medical staff makes periodic visits to each company and at that time reviews any case or examines any employee referred to them by management. They also will interview and examine at the Service Company office, upon request of the manager, any employee who desires a checkup. They maintain complete records of all employees with a history of lost time due to illness and perform many other requested services that are of benefit to employee welfare and company health records.

Q. What services do you render under safety? A. The Service Company safety group is of tremendous benefit to our companies and to our employees in its dedication to improving accident experience. Our safety record in comparison with other gas utilities is evidence of its effectiveness, and its safety meetings, its safety campaigns, its constant search for new ideas, and new safety equipment reflect favorably on our whole organization. We [798] have won many safety awards over the past few years, both national and statewide, and in management and our employees are indeed grateful for the assistance of the Safety Department in the attainment of our safety record.

Q. Moving over to the attorney, what sort of services to the gas companies does he represent? A. We call upon the lawyers in the Service Company Corporate Department, who have been appointed by the gas company directors as counsel for the general companies, in almost every phase of our operations.

They advise us on day-to-day legal matters in connection with our problems with customers, employees, and municipal and state authorities. They are continually studying new legislation and rulings from regulatory authorities to keep us advised of changes that may affect our daily work.

They prepare all legal filings with local, state and federal bodies and represent our companies in all cases before these bodies. They advise us and prepare special contracts when required, and there is no legal problem that arises in our companies that is not discussed with some one of them.

Q. What services are performed under the heading of Publications? A. The monthly magazine "Contact" is distributed to all our employees, and this is a product of the Service [799] Company. The NEES Daily News Digest is a summary of any news affecting public utilities, appearing in daily papers through our territory and New York. Items of interest appearing in this digest are available to us as they appeared in the papers, since the Publications Department maintains a complete file of clippings.

Q. Does this department also assist you in public relations? A. Very definitely. However, when a problem of this nature arises, we usually confer with the NEES Vice President in charge of public relations, and he will assign someone in this department to work with us.

Q. Are all of these services essential? A. Very definitely.

Q. In your opinion, are the billings from the Service Company a fair measure of the value of the services rendered to the gas companies? A. No, sir. First of all, the billings are at cost and therefore do not reflect the charges we would have to pay for such services if we had to go outside for them. Secondly, the billings in no way reflect the value to the gas companies of having a reservoir of specialists on hand for instant service at cost or for brief questions and answers which if put to outsiders not familiar with our gas operations would involve time to research and increase [800] billings.

Q. Were it not for the Service Company, would you have been able to operate your gas companies with the executives and employees you now have? A. Definitely not. By being able to draw on the Service Company we have been able

to keep our executives and employees to a number far below what we would need if the Service Company was not available to us.

Q. Could any of these services be performed by either the Gas Division or the gas companies? A. It would not be possible for us to perform these services without substantially increasing our present personnel. Even then, there are many services performed by the Service Company that could not be afforded either by a gas group organization or by independent gas companies. This is so because the gas companies enjoy the benefit of being a part of the large NEES organization which, although predominantly electric, does give to the gas companies many benefits not possible in a smaller operation.

Q. Are the executive and administrative services of NEES System top management personnel requested of the Service Company and billed to the gas companies? A. Yes. At the beginning of this year we requested the Service Company to provide for us the services of top system executives, as permitted by the Order of this [801] Commission, dated December 30, 1959.

Mr. Quarles: Mr. Hearing Officer, this brings us to the end of one phase of my examination of this witness, and since it is now four minutes of five, it might be appropriate to adjourn until tomorrow morning.

Hearing Examiner Ewell: All right. Is 10:00 o'clock tomorrow morning satisfactory to everybody?

If so, we will resume at 10:00 o'clock tomorrow morning.

(Whereupon, at 4:56 o'clock p.m., the hearing was adjourned to Thursday, May 19, 1960, at 10:00 o'clock a.m.)

[803]

PROCEEDINGS

Hearing Examiner Ewell: We will resume.

Whereupon,

HAROLD L. DALBECK

resumed the stand and testified further as follows:

Direct Examination (Resumed)

By Mr. Quarles:

Q. Now turning from the Service Company back to the local organizations, Mr. Dalbeck, can you summarize the relationship between gas and electric companies locally in areas where NEES has both kinds of operations? A. The Treasury functions are the most important instance of combined operation. Treasury represents the one area where gas and electric companies have common officers. Functionally, accounting personnel are all part of a single organization performing functions for both gas and electric companies.

The closest combination of activities is in the customer accounting field. The same meter readers read both gas and electric meters at a location on one stop. The remainder of the customer accounting operation from the processing of the meter books right through to the preparation and mailing of the customers' bills is handled on a combined basis thus saving time and increasing the efficiency of the entire operation. General accounting [804] functions are also combined. People who work on gas company general books usually are different from those who work on those of electric companies, but most accessory functions from office messengers to overall supervision of Treasury departments are combined. The same is true in the plant accounting and payroll areas. Office maintenance personnel such as janitors, also work on a combined basis and are usually members of Treasury departments.

Q. Are there other treasury functions besides accounting performed locally? A. Yes. In smaller companies, where the amount of stockroom space required is not large, stores functions are combined between affiliate gas and electric companies. Ledger clerks and stockroom personnel work for both companies. In larger companies, however, available stores buildings generally are not large enough for combined stockroom operations and separate gas and electric stores departments are established. Also, customer relations and cashiering personnel work on a combined basis. Customers enter our stores and pay both gas and electric bills to the same person. If they have questions concerning their bills or service they talk to customer relations clerks who answer questions concerning both gas and electricity.

Q. What functions other than Treasury are performed on a combined basis? [805] A. Some Utilization Department operations are combined. It would be uneconomic to train the large numbers of servicemen we have to service both gas and electric appliances, but there are several utilization department jobs which are done more efficiently and economically on a combined basis. Joint service centers where request for service calls are received, records kept, and service orders dispatched exist in several of our companies. Radio dispatching equipment is used by both companies and operated by personnel working jointly for both in some of our companies. Gas and electric service calls received outside of normal working hours are handled on a combined basis by either electric substation or gas personnel, in addition to their other duties.

Q. Are there more areas of combined operations? A. There are many. Practically all community and public relations efforts are combined in communities where affiliate gas and electric companies have franchises. Gas and elec-

tric company managers are continually conferring with each other and taking joint action in this field.

Also, labor and personnel problems are combined. The same unions represent both gas and electric employees. Local grievances which affect both companies in an area are often discussed by both managers and settled between them. There is a wide variety of contacts which do not show on our organization chart but are governed by practical day-to-day judgment as to [806] how gas and electric company personnel can draw on one another for help and assistance.

Q. Mr. Dalbeck, so far, in my questions and in your answers, we have approached the NEES gas business pretty much from an organizational point of view. We have both referred from time to time to the system organization chart and you have described the organization of the Gas Division and of individual gas companies.

You indicated that this sort of approach fails to reflect the many direct contacts across organizational lines which characterize operation of the gas business.

I would like now to try to approach the business from a different point of view, putting formal organization as much as possible in the background, so that we can get at this variety of contact which you say actually occurs.

For this purpose, can you state what are your major areas of concern; that is, what major general problems you and your fellow personnel regularly deal with in order to keep the business going? A. Well, first of all, I would say that there are the technical problems of providing gas service; that is, the problems related to the purchasing of gas, producing gas for peak-shaving, maintaining the distribution systems in condition to distribute gas to our customers' homes or establishments, and keeping their appliances in order to [807] utilize the gas satisfactorily. This has two aspects in that it involves, on the one hand,

the current operation and maintenance of our production and distribution plant and, on the other hand, the planning and construction of new plant as required both for replacement and to meet and take care of load growth as it occurs.

A second major area, which bears closely on the planning aspects of the first area, has to do with what you might call the economics of the business. While ours is a utility business in every respect, it varies from others such as telephone or electric utilities in that it is highly competitive against nonregulated industries. We have no monopoly since there is no use for gas that cannot be replaced by some other fuel. Therefore, we have to perform either better or at lower cost than our competitors in order to stay in business.

This area of economics involves on the one side the whole problem of supply, whether by pipeline or production, from the point of view of cost, and on the other side the question of promotion. In addition to these two major areas which relate particularly to the gas business, there are the managerial problems which have to be taken care of in addition to these principal areas.

These problems are not confined to the gas business but are common in running any business, and certainly the [808] public utility business. These include financing, purchasing, keeping accounts, paying taxes, maintaining good labor relations, customer and community relations, maintaining contact with local regulatory authorities and so on.

Q. All right, tell us a little more about what you have called the technical problems of providing service. Thinking first about the day-to-day aspects of these problems, who primarily is concerned with them or in charge?

A. As far as day-to-day operations are concerned, these are handled principally at the local level, and as long as no major problems develop they are handled by the super-

intendents and the local company personnel under them; that is, the superintendent of production, distribution and utilization.

As soon as any major problem develops it is reported to the vice-president and general manager. As the individual in immediate charge of the company's operations, he must keep informed of all sorts of problems, and his judgment enters into any decision as to how to handle them. Technical assistance in this area comes initially at least from the gas division staff at Malden.

Q. What kinds of things have to be done in the day-to-day performance of these technical functions? Take first the problems of the production superintendent. A. You will recall from our discussion of natural [809] gas supply contracts that we find it economical to make some of our gas on cold days. In cold weather the production superintendent watches gas purchases from the pipeline company very closely in order not to exceed the most economic purchase demand. It is his decision whether he will make preparations to manufacture gas for peak-shaving purposes on any given day. He generally consults with the manager concerning the manufacture of gas, and the decision is usually a joint one between the manager and the superintendent. He is in charge of the actual operation of natural gas receiving stations where metering must be carefully checked, of gas storage holders and of the gas plants. The local company staff is generally sufficient in size and skill to handle these functions.

Q. What are some of the special problems on which a local company may call for help from gas division headquarters? A. Well, for example, it is customary for each company to make training runs on its gas manufacturing equipment prior to the advent of cold weather each year. The gas division engineers advise and work with the local superintendent as requested in these training runs. They

check the operation of the gas-making equipment and the recording and controlling instruments, and provide instrument maintenance service where necessary. This sort of [810] testing only needs to be done periodically and is an instance of gas division personnel with their wide experience being available for these special jobs when the need occurs.

The receiving of purchased gas is a production function, and the superintendent watches the actual purchases at receiving stations, but general relations with suppliers and the making of contracts are handled at gas division headquarters. This is logical because all our natural gas except at Norwood is purchased from one supplier under one filed tariff, and the interests and problems of the several companies in this connection are very similar.

Negotiations and Federal Power Commission proceedings take a great deal of time, and this would be a major burden on each gas company if it had to do for itself what one man at gas division headquarters does for them as a group.

Q. Are there other functions on which the production superintendent regularly receives help from outside his local company? A. Yes. Part of the production function is the storage of gas in storage holders before it enters a company's distribution system. NEPSCO has a holder maintenance crew which performs the major part of the maintenance work on storage holders. The purchasing department of the service company performs an important function for the production department in purchasing all of the propane and other gas-making [811] fuels required for gas production.

Q. What generally does the superintendent in charge of distribution do? A. He supervises the day-to-day operation and maintenance of the distribution system, including the laying and repairs to mains and services and the

maintenance of regulators. He is also responsible for leakage surveys, for pressure regulation, for pressure surveys and for determining the necessity and timing of new facilities to adequately meet increasing loads.

When it comes to actually designing or constructing major additions, or economically handling unusual maintenance problems, the distribution superintendent draws on gas division engineers and outside contractors for assistance, although the responsibility for the adequacy of his company's distribution system remains squarely on his shoulders.

Q. Can you describe some particular problems that the distribution superintendents have had to cope with in recent years? A. Well, as I indicated in talking about the advent of natural gas in New England, the effect of its high BTU content was to virtually double the capacity of our distribution systems. Added load, due to successful sales promotion, absorbed that extra capacity in many areas within [812] 3 years of the coming of natural gas, and at that point we had to increase distribution capacity in order to keep up with our load growth. How to expand distribution capacity was an exceedingly complex problem.

Q. Well, was this a problem particularly of the local distribution superintendents or was it a headquarters problem? A. Both. It was a problem which in general terms was shared by the several companies and required the engineering capabilities of the gas division staff.

On the other hand, it was not something that had a common solution since each company's particular problems were peculiar to its territory, history, its future and other circumstances and conditions. Therefore, this problem, like most, has required close cooperation and teamwork between the gas division staff and individual company distribution superintendents, and of course the company general managers and myself.

Q. Describe generally what action was taken to solve these problems. A. A careful study and a review by top management recognized the need for undertaking an intelligent program of adding capacity to old mains and providing new ones where needed. Such a program included an analysis of the existing distribution systems, as well as a long-range plan [813] to indicate what the future systems should consist of. Otherwise, sizable expenditures might be made in the construction of improperly sized or incorrectly located facilities. Comprehensive studies were made of population trends, movements to suburban and rural areas, residential building, growth of the commercial and industrial load, and industry's migration to industrial parks.

From these studies there was developed what we called a master plan projecting our load growth and the related distribution network requirements for a 20-year period. This serves as a guide for expansion and it is supplemented by continuing field pressure surveys during the winter months when demands are at their peak.

The use of a McIlroy fluid network analyzer, available to our gas companies at Tufts University about 2 miles from gas division headquarters, makes possible highly accurate studies of long-range distribution system requirements very quickly.

Chronological schedules of improvements and additions to the high, medium and low pressure systems, capital investment required and the net revenue produced were estimated and projected over the years of the plan. This foresight in planning ahead avoids pressure problems, premature capital expenditures and results in more accurate budgeting of money requirements for future growth. [814] Improvements and additions made as a result of this planning enabled division companies to handle peak day sendouts in 1959 which had increased substantially

from 1951. For example, Wachuset area—482 percent, Northampton area—445 percent, Lawrence area—383 percent, Norwood area—327 percent. These studies and planning are also of great use of course in planning system requirements for production, purchase and storage facilities.

Q. Who does the actual construction on improvements and additions to the distribution system? A. Generally contractors who are the successful bidders do the major construction and laying of mains and NEPSCO usually installs the pressure regulators.

Q. What do the local superintendent and gas division headquarters engineers do on contracted projects? A. The local superintendent is in direct charge of overseeing the work after determination of the major projects to be done. He gets what help he needs, particularly on planning and engineering, from the gas division. In other words, the gas division usually plans and evaluates the requirements, and the superintendent gets the job done.

Q. Does anyone in the NEES system besides the engineers at Malden and the local superintendent play a critical role in projects of this sort? A. Most definitely so, yes.

[815] In the first place, any project of this kind involves continuing managerial evaluation. That is one of the things which I spend a great deal of my time on, as do the local company managers.

We are constantly assessing the cost of these projects, assisted by the engineers' advice as to the advantages of doing them one way or another, such as weighing the short-term advantages of lower cost against an improvement which might be more adequate over a longer period of time.

The engineering function and the executive function are exercised in closest coordination. The local manager discusses these problems regularly with his superintendent,

and, being in Malden, I keep abreast of them largely through contact with my assistant for operations. But the contacts run every way—I talk with the local superintendents, the local manager talks with headquarters engineers, and, of course, the local manager talks frequently and reports regularly to me. Furthermore, of course, I discuss any major project with system top management personnel.

Then there are all the administrative details to be taken care of. Construction of mains, for example, involves financing, legal problems of letting contracts, compliance with municipal requirements in connection with opening up streets, possible easement or right-of-way [816] problems, and problems of customer and community relations in connection with any interruptions of service or other inconveniences caused by our activities.

Some of these problems we handle ourselves, but there are phases where we have to obtain help because we just are not staffed to cover all necessary areas. This is where we call on the service company for assistance, and this allows us to concentrate more fully on the job to be done at the local level.

Q. All right, speaking of production and distribution generally, is it true that, as far as day-to-day operations go, these are primarily taken care of at the local company level? A. In general, yes. These functions, as I have described them, relate to the company's physical properties and its own customers and are therefore the primary concern of local company personnel. The engineers at the gas division exercise a general advisory and reviewing role in connection with all of these functions. Planning and building for future growth is to a great extent the joint concern of the gas division and the local company personnel. Future requirement projections are largely formulated at Malden with the advice of local personnel.

Q. What is the degree of cooperation, interchange or contact between gas and electric personnel in relation [817] to these functions? A. Cooperation between gas and electric personnel exists where it can be of mutual benefit.

Of course, the gas and electric production and distribution facilities are not alike, and the engineering problems are materially different. Therefore, generally the actual technical operating people are not interchangeable. That is why we have an engineering staff of our own at Malden instead of going to the service company for the bulk of our engineering assistance.

However, there is a lot of contact between electric and gas personnel, and cooperation where it saves money.

As long as we are tied in with NEES there are many cases where space which would be useless to one company is utilized by the other, although an outsider's presence would probably not be satisfactory.

Gas production plants with their many buildings and yard areas and electric production and distribution facilities with similar structures are used by both gas and electric companies jointly in the NEES system.

Q. What are some examples of use by one company of space belonging to the other? A. The electric company leases space at the Lawrence Gas Company plant for the storage of transformers, cable and other equipment. In Northampton, a building which [818] originally housed a gas holder has been converted into a stockroom which is used jointly by both the gas company and the Northampton Electric Light Company. This electric company also utilizes gas company yard space and a shed building for the storage of transformers and crossarms and also for training purposes.

In Beverly the North Shore Gas Company and the Merrimack-Essex Electric Company each have adjoining

operating department buildings, surrounded by considerable yard area which is divided and owned by each company. The gas company has a large storage holder in the center of the electric company yard area, and gas piping runs beneath the surface of the electric property.

On the other hand, the electric company has underground electric facilities under gas company property, and leases the former coal shed owned by the gas company for the storage of electric distribution materials and supplies. If we were unaffiliated this sort of intermingling might not be acceptable.

Q. Are there further contacts at the operational level beyond this use of space belonging to the other company?

A. Yes. In some cases there is actual joint use of the same equipment, space or facilities.

Q. Can you give some examples of joint use of equipment? [819] A. Northhampton Gas Light Company and the Northhampton Electric Lighting Company share the use of certain gas and electric distribution equipment. An electric company pole trailer is occasionally utilized by the gas company for transporting pipe. By the same token, the gas company compressor and operator are occasionally used by the electric company distribution department in the placement of poles in ledge or frozen ground. Other companies have similar arrangements.

Q. What does a utilization superintendent do? A. A utilization superintendent's job is largely to keep an adequate force of properly trained servicemen on the job, and parts on hand are available to perform service on customer appliances as required. There is a service center where customers' calls are received and work is dispatched to servicemen.

The utilization superintendent also is in charge of turning service on and off, and meter operations and maintenance. As I previously stated, there is a servicemen's

school at Malden to which each company superintendent sends his men as required.

Q. Are there any areas where particular personnel actually perform services for both gas and electric companies, in the operating departments? [820] A. Yes. In the area of utilization, while the actual gas and electric servicemen are not the same, there is considerable cooperation in the matter of taking service calls, dispatching and commencing and terminating service. A gas serviceman can read in and read out electric meters, and it is usual practice to send one man instead of two to turn on and turn off gas and read in and read out electric service.

Receiving service calls and dispatching servicemen is handled on a joint basis in several companies. Office space is utilized jointly for this purpose and customer service records can be maintained in combined files. Such joint service order centers result in economies in the utilization of space and number of personnel.

Q. Would you give a description of how one of these centers operates? A. The joint service order center of the Suburban Electric Company and the Mystic Valley Gas Company, located in an electric company building on Centre Street in Malden, performs both gas and electric company functions for joint customer areas. This department receives telephone service requests from customers for both gas and electric service. These requests are noted on cards, and gas service requests are teletyped to the gas service department at another location where they are dispatched by radio. [821] Completed service orders, originally teletyped at this joint service order center, are sent back to this department for notation on customer record cards.

Gas company personnel handle all turn-on and turn-off requests received in this center, where the customer is both a gas and electric customer. Electric personnel turn

on and turn off customers who have electric meters only. This joint gas and electric turn-on and turn-off function amounts to approximately 15,000 calls per year by gas company personnel.

Q. Are there other such joint centers? A. Yes; several. Every company except Norwood and North Shore has similar arrangements although the method of operation is different.

Q. Are there other utilization operations besides service centers which are handled jointly? A. Yes. As an example, Lawrence Gas Company and Merrimack-Essex Electric Company orders are handled by a joint meter department located at Methuen Street in Lawrence. Gas servicemen read in and read out electric meters where gas meters are turned on and off at the same location. The meter department foreman is also responsible for the maintenance of all gas and electric meter history records.

Monthly reports of gas meters removed for test [822] are also filed by this meter department foreman. All members of the meter records department are electric company personnel and they perform duties equally for the gas company.

Q. Is any other function performed jointly? A. Yes. The mobile radio transmitters which are installed in each of the gas company and each of the electric company vehicles in Lawrence are owned by each respective company. The main radio transmitter, however, is used by both. This transmitter is owned by the electric company and part of the expense incurred in its operation is charged to the gas company. Other companies also have joint radio facilities in varying degrees.

Q. It seems then that many of the utilization functions of the affiliate gas and electric companies are done jointly. A. I would say that facilities and personnel used in the performance of service work for both gas and electric

affiliates of NEES are used jointly where economies and convenience can be achieved. The extent of these joint operations varies in each company due to geographic location of overlapping service areas of both the affiliated gas and electric companies.

In many areas, gas and electric service to the customer is made available faster and more conveniently [823] through joint service operations.

Q. Are there other important areas of cooperation between gas and electric personnel affecting the operational aspects of the gas business? A. Yes.

One important area of cooperation not only between gas and electric personnel but also between personnel generally throughout the NEES system relates to emergencies. This kind of cooperation is hard to describe in general terms.

All companies have emergency plans, but the emergency when it occurs is apt not to conform with these plans. Whatever the plans may be, the presence of personnel in an affiliated company whom you know and can call on and who are familiar with your territory increases your flexibility.

Despite the keen competition which exists between the gas and electric operations of the NEES system in many areas, there is never any question that in an emergency all of the companies will combine to do whatever is possible to help.

Q. Would you describe an actual emergency that has occurred? A. Yes. During one winter, on the coldest day of the year, the relief holder at the Northampton Gas Company [824] froze and was not operable. Since it was necessary on this day for the company to make peak-shaving gas or pay the penalty of increasing their billing demand considerably, the situation was of an emergency nature. The assistant to the President for Operations dis-

patched gas division headquarters personnel to Northampton in order to assist the local superintendent with his problem. The assistant to the President for Marketing and Supply contacted the lawyers in the service company concerning the provisions of our purchase contract with Tennessee Gas Transmission Company as to emergency gas. He also talked to the Tennessee sales department.

We got no help from Tennessee. So we had to solve our own problem. Accordingly, the gas division engineering group personnel determined that multiple chain falls were necessary in order to raise the holder and remove the ice, and they called on service company personnel to provide and operate this equipment. In addition, they called on the purchasing department of the service company to acquire additional chain falls in a hurry.

In the meantime an emergency method of manufacturing gas was devised by the gas engineering personnel and the affiliate electric company in Northampton assisted by installing an emergency signal system of an alarm and a light by which a gas maker could signal an exhauster [825] operator and thus produce gas through by-passing the relief holder.

This emergency emphasizes the fact that assistance from the service company and affiliated electric companies is of invaluable help during such situations. In almost every emergency the service company is available with construction crews who can cut off or make temporary repairs to mains, provide equipment, purchase supplies, give legal advice concerning disaster procedures, and generally ease the burden of gas division and local company personnel. At the same time, people working for the vice president of NEES for public relations assist by keeping the public informed of our emergency remedial procedures and our progress in restoring service when interrupted.

Q. Have you now described fully the extent of the help the rest of the system and the affiliate companies give to the production, distribution and utilization departments of a NEES gas company? A. By no means. The contracts are many at the operating level, and what I have cited is only one instance.

Q. All right, now let us turn to your second area, that involving the economics of gas supply and marketing. Who is chiefly concerned with problems in this area? A. As I said, for purposes of discussion this area can be divided into questions of supply and sales.

[826] As far as supply goes, the responsibility for this centers in the assistant to the President for Marketing and Supply, but the service company is called upon many times to assist him.

All our companies except Norwood receive their gas from one supplier, and while each company has separate contracts their terms and rates are the same. It is practical and economical to let one person take primary responsibility for this problem for all the companies.

Q. Can you give a brief summary description of what is involved in working on supply problems? A. Purchasing natural gas involves us with our suppliers and the Federal Power Commission in two major ways. One involves the quantity of gas we need, and working with the pipeline in obtaining a certificate of public convenience and necessity. The second involves the rate we pay for the gas. We have unfortunately been involved almost continuously in one rate case after another in which our supplier has been increasing its rates.

We are required by our gas purchase contract to give our suppliers detailed estimates each year for 5 years ahead to enable them to plan their system expansion, and to demonstrate to the Federal Power Commission what their gas requirements and pipeline capacity requirements

will be. We use these estimates as a basis for our exhibits and [827] testimony in support of the pipeline's application.

Basic estimates are prepared by each gas division company under the guidance of the assistant to the President for Marketing and Supply. He then prepares our exhibits and testimony and is the witness for all our companies. This makes for a substantial saving in manpower and expense to the individual companies.

Over the last 5 years we have been almost continuously involved in negotiations with Tennessee particularly involving peak-shaving or storage service gas and their certificate applications in attempting to get approval for these services.

These rate cases, which have involved not only increases in the well-head cost of gas and other costs to the pipeline companies of rendering service but also disputes between pipeline customers in different areas over the sharing of costs, have been very bitter, hard-fought and time consuming. We have had to be represented at numerous conferences with other customers of Tennessee, numerous days at hearings and at conferences with our lawyers and consultants.

Frequently in day-to-day operation of our companies questions arise as to our rights or obligations under the pipeline contracts. These matters are all handled chiefly by the assistant to the President for Marketing and Supply. [828] He consults closely with me on all matters of this sort, and also with our lawyers in the corporate department in NEPSCO who are well versed on the laws, rules and regulations of the Federal Power Commission.

Q. All right, now, how about sales? Whose concern, primarily, is sales? A. Sales promotion is almost everyone's job. It is my most important single concern. It is the most important concern of each company manager. It is the

direct concern of the sales promotion manager at gas division headquarters.

Industrial and commercial customers are also in the area of responsibility of the assistant to the President for Marketing and Supply. Five of the company managers have sales managers assisting them whose sole responsibility is sales promotion. Sales promotion is a team job and it is everyone's concern to do what he can.

Q. Is there an overall coordination of the sales efforts in each of the local companies by gas division headquarters?

A. Yes.

Any situation in which sales decisions made by a company manager could affect other gas division companies is discussed with the gas division staff. An example of this is when a local company manager or sales manager has the opportunity to offer gas service to a contemplated [829] state-aided old age housing project. Any decisions he might make could ultimately affect other gas division companies since such projects are built throughout the state.

Gas division headquarters staff personnel would consult with me and policies for future relations with state authorities concerning such projects would then be formulated.

Q. Is there any cooperation in the matter of sales promotion with affiliate electric companies? A. Not cooperation insofar as sales are concerned. However, stores for the sale of gas and electric appliances occupied by personnel of both companies have been set up. Appliances of all types are displayed under one roof, and customers can go to one location to see both types.

The maintenance, rental fees and other expenses involved in operating sales stores can be shared by each company, thus reducing their costs below those which would exist if the stores were operated at separate locations.

Q. Are these stores a detriment to active competition between the sale of gas and electric appliances? A. No.

Any gas load which can be added is obtained by gas sales personnel regardless of whether or not it is at the expense of an affiliated electric company.

Q. Can you give a specific example of competition [830] between affiliated gas and electric companies in their sales efforts? A. I certainly can.

In 1959 a large old-age housing project was proposed by the City of Everett in Massachusetts. The electric company spent considerable time and staff effort in convincing this local housing authority that an all-electric project was the thing to have, including electrically heated apartments.

A meeting was held between the housing authority and several of the personnel of the electric company's power sales staff and they were assisted by the NEPSCO electric sales staff. Learning this, the gas company formulated a sales approach to counter the electric company's sales efforts, and convinced the local housing board that an all-gas project would be better for them. The result which was most satisfactory to the gas division was that the project was built with all gas cooking, space heating and water heating equipment.

Q. Why is there joint operation of stores in view of this competitive spirit? A. Joint branch stores have been found to be beneficial to the customer and to each company because they provide economical showrooms, cashiers to receive payments of bills, and coverage of the store with a minimum of [831] personnel.

Joint stores enable a customer to shop more conveniently and make direct comparisons. Furthermore this joint store operation in a very real way promotes competition since the customer is exposed to both gas and electric appliances and salesmen.

Q. Does the NEES central organization supervise any of the gas company sales activities? A. No, sir.

Q. Aside from this area of joint stores I gather there is not wide cooperation between gas and electric people in this sales area. A. That is correct. Except in these joint stores there is no cooperation.

I believe that gas and electric sales programs being operated independently can result in increased load to each company. Competition in itself encourages greater effort on the part of the competitors, and I am sure that we in the gas companies are doing a better job because we are out fighting for business. I am afraid the electric companies can probably say the same thing.

Q. Do you think, Mr. Dalbeck, that your sales promotion activities would be more successful if the gas companies of which you are president were wholly independent of the NEES system? [832] A. No, I do not think so. We now do everything we can to encourage our salesmen. I don't know what more we could do that would make the program more successful.

Q. Do you feel any restrictions on your sales promotion activities from NEES management which you feel are imposed to protect the system's electric load? A. No, definitely not.

Q. I want to turn now to the factors you said are not confined to the gas business. Will you restate some of the activities you classify in this category? A. Well, these involve all the things that have to be done to enable us to get on with the business of selling and supplying gas. It includes personnel and labor relations, customer relations, community relations and public relations. It also involves legal, financing and other services.

Q. Who handles personnel and labor relations, and how? A. The manager of a gas division retail company performs many personnel and labor relations activities in his day-to-day work. Some of these duties are accomplished without consultation with gas division headquarters and

some, due to established policy, are referred to both gas division and to the NEES central organization. There is constant two-way communication between NEES, gas division, [833] and the local companies concerning labor and personnel matters.

Q. What are some of these matters? A. Retirements and company expansion can leave the local manager of an individual company with a personnel problem. In all replacements of supervisory personnel he calls on gas division headquarters for assistance. This is because in our whole concept of developing executive personnel we may transfer personnel from one company to another to advance, train and broaden them.

In addition, the gas division has training students on its payroll almost continuously. These students can be shifted into the various local companies as their aptitudes and the requirements of the companies dictate. For example, in the fall of 1958 it was felt that an additional industrial sales engineer was needed in the commercial and industrial sales department of the Mystic Valley Gas Company. A training student with the necessary qualifications was working with the gas division headquarters at the time and was assigned to the department. He filled the additional personnel requirement of this department satisfactorily and is now a permanent fixture.

The New England Electric System has training students working throughout the system continuously, many of whom spend a part of their training in the gas companies. [834] These training students form a pool of college graduates from which gas division companies have obtained replacement or additional personnel. At the completion of the NEES training program, these young men have a broad background of most of the NEES operations and policies and are valuable additions to any gas company personnel. We are only interested in the trainees who are interested

in the gas business and we certainly are indebted to the system for the type of men we have been able to attract.

Q. How are personnel changes made at the local company level? A. The manager of each company continually surveys the personnel requirements of each of his company's departments. He discusses these requirements with his department heads and together they make changes in their organizational set-up.

All shifting which would not result in changes of classification or rate of pay of any employees are made by the manager without referral to higher authority. If a manager, however, determines it necessary to add personnel to his payroll or to make shifts in his organization which result in changes of classification or rate of pay of his employees, he refers them to gas division headquarters who, if in agreement, would discuss such change or increase with the NEES vice president for management.

[835] Q. What does personnel involve beside hiring and promoting? A. The overall morale of the employees in any company is closely watched by each manager. Each company has social functions after working hours, very often jointly with affiliate electric companies, which contribute to improved morale.

Q. What is involved in labor relations? A. There is the problem of dealing with the unions. Local working condition disputes and grievances are usually resolved in meetings between the manager and the union business agent.

Since actual labor contract negotiations are carried on for each company by the service company, the manager consults with NEPSCO staff personnel concerning labor problems. The assistant to the President of the Gas Division for Operations serves as the liaison in labor matters between the local company manager and the other segments of the NEES system.

Q. How are customer relations handled in gas division

companies? A. Customer relations are handled at the local level by personnel especially trained to deal with customers. The manager of a gas company has the ultimate responsibility for good customer relations. If dissatisfaction [836] occurs, the manager must settle the matter fairly and promptly in order to retain the customer's good will.

To encourage our employes to better perform the job of customer relations, the Personnel Department of NEPSCO has provided a joint AGA and EEI customer relations course which it has purchased and distributed to local companies. Supervisors give this course to customer contact personnel. In addition, the NEPSCO Personnel Department in past years has written and given a ten-lesson course in customer relations training to supervisory employes who then give the course to customer contact employes in their respective companies.

Q. You also mentioned community relations. Would you discuss this? A. Good community relations are essential, of course, to the success of any public utility, and take much of a manager's time.

Typically the manager of a gas company is active in charitable and service organizations such as the United Fund, the Rotary, Kiwanis and other service clubs, the Chambers of Commerce, and various industrial development committees. He also assists and encourages his employes to participate in charitable and service activities. Through such participation, the manager keeps abreast of the developments in the community his company serves and [837] on whose growth and prosperity his company relies.

Q. How about relations with municipal officials? A. The relations between a gas company and the municipal officials of the communities it serves must be maintained if the company is to succeed. A gas company in any community is a major taxpayer in that community. The company must

keep the assessors informed of additions and retirements of a company's property in order that proper community tax revenue will be derived from the gas utility. The manager, of course, must have discussions with the assessors in order to keep the tax burden of the company as low as proper.

Permits for street openings, permits for plumbing and gas piping work, and permits for structural changes and additions to company plant must be applied for almost daily in each locality by the gas company. If municipal construction such as bridges and highways require the relocation of gas mains, coordination between company employes and municipal officials is necessary. It is the manager's responsibility that such relations are carried on in a satisfactory manner between company employes and these officials.

Q. I gather that local community relations are primarily the responsibility of the local manager. Does he get important help from elsewhere in the system? [838] A. Yes, he does.

Changes in company policy which affect the public, and important personnel changes, sometimes require special effort by the company to keep the public informed. News releases then are usually prepared by the NEES central organization and are submitted to newspapers by the managers of each company.

For example, in 1955 most NEES gas and electric companies adopted bi-monthly billing. Explanatory advertisements prepared at NEES headquarters were placed in local papers informing the public of this change and indicating to them where questions concerning future bills could be answered.

Important events in any of our service areas which are of concern to NEES gas and electric companies are customarily reported to me by the local company managers

immediately by telephone. I, in turn, keep the vice presidents of the NEES system for management and public relations informed of such events. In addition, each company manager submits to me a monthly manager's letter which includes outstanding community events which have occurred over the previous month. A copy of this letter is also forwarded by the manager to the system vice-president for management.

Q. How about at the local level; are community relations [839] handled jointly by gas and electric companies?

A. The managers of each of the affiliate gas and electric companies of NEES perform many community relations activities together. They are in constant contact with the public on the telephone, at service club meetings, at city and town government meetings, and on the street. Many questions by the public concerning the activities of either the gas or the electric company in a given locality are handled by each manager for the other company.

Q. All right, now, I want to turn to professional services. How are these handled? A. Well, if you mean medical and legal services, these are handled largely by the service company. The gas companies have no doctors or lawyers on their payrolls, as such. As I said earlier, the service company lawyers are appointed counsel to each of the companies, and we call on them pretty freely as we would on a gas division general counsel if there were one.

Q. Do you find it helpful to have counsel who are also counsel to the NEES system electric companies? A. Yes. I feel that it is a distinct advantage. A lot of the legal problems of the gas and electric companies are very similar, and I believe we therefore get better legal service at lower cost than we would be likely to get from outside the system. Furthermore, the [840] gas companies by themselves could not afford a legal staff of the size and depth which the service company provides for the whole system.

Therefore, I think we do benefit from having lawyers in common with the electric companies in the system.

Q. Are there examples of particular services rendered by the service company on a combined basis? That is not just the same sort of service rendered to both gas and electric companies but a particular service performed jointly for both. A. Yes. For example, when the national highway program law was passed, which stated that utilities may be reimbursed for the relocation of their services due to this highway construction, an employee of the New England Power Service Company was appointed to coordinate all reimbursement efforts by NEES companies and to minimize whenever possible nonreimbursable relocation expenses. He represents the gas and electric companies where interests are nearly identical on this question.

Another example is union negotiations which are actually handled on a unified basis for the system.

Q. You mentioned a safety department in the service company. Will you give a brief description of safety activities in the gas companies? A. The safety department directs all safety activities [841] throughout the NEES system. Local safety committees have been set up in each of the gas division companies, and monthly meetings are held by these groups which investigate accidents and recommend corrective measures for unsafe conditions. Safety department personnel often attend these meetings and provide literature and information to assist these local safety groups.

The safety department runs annual safety campaigns which are carried out through local safety committees in order to reduce accident frequencies. The success of the efforts of the safety department and the local safety committees is notable and gas division gas companies have won several safety awards from the National Safety Council and the American Gas Association. For instance, the Mys-

tie Valley Gas Company won the national award from the National Safety Council in competition with other gas companies of comparable size throughout the nation for the years 1954, 1957 and 1958. This company also received national recognition from the American Gas Association in 1959 for completing 1,000,000 man-hours without a disabling accident.

In 1958 the gas division as a whole received an award from the American Gas Association for having improved their accident experience in 1957 by more than 25 percent as compared with 1956. Many of our smaller companies [842] have also received similar national and regional awards in competition with other companies of similar size.

Q. You mentioned financing. What about financing and other treasury functions? A. Ordinarily, of course, billing, accounting, banking, borrowing and issuing securities are a large part of the management responsibility in running a utility, and if I were in charge of a separate gas company or system I would have to be concerned with them. I would be directly involved with people who make tax returns, corporate returns and regulatory commission returns. Being in the NEES system I can obtain these services from an expert organization under the direction of the system treasurer.

Q. Mr. Dalbeck, you said at one point that your chief concerns as president of the gas companies were the technical, operational aspects of gas service on the one hand, and, on the other hand, the economics—questions of promotion and supply. Then you said there are lots of subsidiary, managerial problems that have to be taken care of. Would it be fair to say that your most important contacts with the rest of the NEES system relate to these subsidiary managerial problems? A. I think that is generally correct. Obviously, the operations of gas and electric businesses involve different techniques, and the economics have

to be handled [843] separately not only because of the competitive aspects but because again the problems are different.

On the other hand, there are marked similarities between gas and electric service which make the common performance of many functions logical. Both operations involve producing and distributing a source of energy and taking it into people's residences or places of business. Both have to render bills and keep similar customer records. Both are regulated by the same state authority, and have similar legal problems arising out of their status as utilities. Both have similar labor, customer and community relations problems.

Under these circumstances it seems to me that it would be uneconomic, inefficient and not in the public interest if we did not combine forces to handle a lot of these problems together. Meter reading is perhaps the most outstanding case of outright duplication if functions were performed separately, but in other areas it would be wasteful to maintain separate offices and employ people to do things which can well be done by one for both utilities.

Of course, when you come right down to it, you cannot separate many of the special problems of gas from electric. Therefore, to do the best job possible you have to have an organization such as we now have which [844] can work together on the operational, economic and all other aspects of a problem.

Q. Just to round out this part of your testimony, will you describe an example of the type of situation where everyone works together on operational, economic and other aspects of a particular job to get it done successfully?

A. Yes. A good example occurred when we extended our mains into Burlington, a new territory, contiguous to our service areas in Reading, Woburn and Lexington.

An industrial customer approached us to inquire of the possibility of purchasing gas for his new plant to be located on Route 128. Our existing main in Woburn was about one mile from this plant.

We gave the problem careful study and determined that it would be economically justified to serve this customer. We did not, however, have a franchise in the territory, and before petitioning the Department of Public Utilities for the right to enter Burlington, we decided to survey that portion of the town close to Route 128 for other possible customers, both industrial and domestic.

At this point we could visualize a substantial expenditure in Burlington, and I discussed the project with the then vice-president of the NEES system in charge of retail companies, with Mr. Hanson, as to capital funds, and with other NEES system officials. When we were agreed [845] that the project was feasible, we then arranged with service company legal personnel to prepare the application for a franchise for filing with the Department of Public Utilities. This application was filed and hearings were set.

In the meantime it was important that the citizens of Burlington know what was going on. So we arranged with Mr. Ahern, vice-president for public relations, to prepare news releases and publicity. This accomplished several things. First, it explained to the Burlington public what we were doing and averted misunderstanding. Second, the publicity made Burlington aware of gas as a desirable fuel and opened many doors for our canvassers.

Mr. Ahern also advised us on giving town officials advance information on our plan, on the best approach to follow in developing our relations with the public, and later on helped us make contact with town officials.

With the hearings set by the Department of Public Utilities, our NEPSCO counsel proceeded to prepare the case and presented it before the Department. The case was con-

tested by another gas company desiring to enter this territory. So service company counsel's long experience in public utility law proved to be most helpful.

Prior to the hearing we had prepared a construction [846] estimate which indicated that, based upon our potential revenues from Burlington, we would run about 20 miles of mains over a 3-year period at a cost of about \$600,000. When I submitted this budget to NEES there was no question as to the expenditure or its timing. I did not need to be concerned about financing the undertaking as Mr. Hanson had already cleared that angle.

In connection with our long-range construction plans, it was apparent that we would have to buy land for a meter station, and we again called on the service company for assistance, this time the right-of-way department. Land along Route 128 has become tremendously valuable, and that fact plus the fact that we were restricted as to the land we could acquire because of zoning restrictions and the need to get as close to the Tennessee pipeline as possible, made our search for land a very delicate operation if we were going to get the property at a relatively reasonable price.

The land was acquired and the deed and the real estate closing were handled by another group of lawyers in the service company. After approval had been obtained by the DPU for entry into Burlington, Mr. Ahern arranged for CONTACT, the employee magazine, to prepare an article on the Town of Burlington which pointed out its rapid growth, its attractiveness to industry and its rich historical [847] background. Reprints of the article were made for distribution to Burlington residents, and copies were also made available to town officials for their use in advertising the town.

As a result of the efforts of so many people in these many areas of the NEES system, our entry into Burling-

ton was a tremendous success, and the excellent public relations built up resulted in a demand for gas beyond our fondest expectations.

As a result of this concerted program, we entered an account of the Burlington story in the 1959 AGA public relations contest, under the title "100 Blue Flames for Burlington", and won an honorable mention, the only award granted for a public relations program that was not companywide.

You can see from this outline that in this very important extension to our territory NEES management, NEES treasury, NEES public relations, NEPSCO engineering, NEPSCO lawyers and CONTACT played vital parts.

As a result of our combined efforts in Burlington the demand for services required our advancing our construction program so that instead of spending the \$600,000 budget in 3 years and connecting 500 customers in 5 years as we had originally estimated, we did both in 15 months.

Q. All right, now, Mr. Dalbeck, I would just like [848] to discuss in a little more detail a few of the areas you have touched upon.

First, you have mentioned sales promotion several times, and indicated its importance to the business, and I want you to describe in detail just what activities go into sales promotion and what results have been achieved, especially in the period since the gas division was organized. First, will you describe generally what was done in connection with organization of the gas division to promote sales.

A. Probably the most important immediate objective in forming the gas division was to develop an aggressive sales program, completely separated from electric sales, in order to increase as rapidly as possibly the revenues from gas sales. A gas sales promotion manager was appointed to the division staff, functioning under the direction of the president of the gas companies. Separate sales

organizations were set up in each company to sell gas appliances exclusively.

In the smaller companies the managers functioned as the sales managers and in the larger companies gas sales managers and sales supervisors were appointed. An independent advertising agency was selected to handle gas advertising and gas promotion.

Although gas salesmen generally operated under the same union sales agreement as electric salesmen, added [849] sales incentive bonuses, not a part of the union contract, were offered gas salesmen during campaign periods.

A gas-water heater rental program was instituted for the rental of domestic automatic water heaters, and this has recently been expanded to a trial period of gas commercial automatic water heaters.

In 1951 dealer sales of gas appliances were practically nonexistent, but the promotion of gas appliances has had a salutary effect on dealer sales, reported unit sales by dealers in 1959 being about 6,600 units, including about 1,500 house heaters.

As a result of aggressive promotion by the gas utilities of gas appliances, a marked upward trend in the number of dealers, large department stores and discount houses advertising and selling gas appliances is evident in our territory.

Q. Please describe and evaluate briefly some of the results of your sales efforts. A. We are doing well in a highly competitive market against both oil and electricity. In 1952 we had a house-heating saturation of less than 2 percent. We now have over 32,000 customers classified as house heating, or 17.3 percent of our total customers, and probably 3,000 or 4,000 more who heat their apartments with gas but do not use enough to qualify for our house-heating rate. It is evident [850] from the amount

and type of oil-industry advertising that gas home heating is having an impact on the domestic heating market.

In the field of water heating we do not consider electricity a real threat in spite of the high allowances made by our electric competitors, both affiliated and nonaffiliated. Proof of that is the fact that since 1952 we have rented or sold 40,000 water heaters or about 20 percent of our total customer. When considering sales by other merchandise outlets, such as Sears Roebuck and plumbers, it is obvious that gas is the accepted fuel for water heating and inroads in this market have not been significant.

Another area in which the gas companies are making inroads into electric sales is the field of clothes dryers. In 1951 very few gas dryers were sold and, in fact, the gas dryer of that period was not competitive with the electric dryer in construction, price or economy of operation. However, since that time tremendous improvements have been made in gas dryers. Several manufacturers are aggressively advertising them, and our gas companies are selling increased quantities. They are priced slightly higher than electric dryers, but are easier to install, easier to service, less expensive to operate and dry clothes faster. [851] All of these advantages, together with aggressive merchandising and advertising, have resulted in annually increased sales, from 70 in 1951 to 803 in 1959.

Gas refrigeration has been dormant for some years because of the demise of the Servel gas refrigerator. However, RCA Whirlpool, who bought out Servel, have developed a new gas refrigerator which is now in production and will offer to the gas industry a refrigerator that will be superior in performance, attractive and economical and at a price competitive with electric refrigeration.

Norge is also now producing such a gas refrigerator, and the industry, including of course ourselves, expects aggressively to promote and sell gas refrigeration on a large

scale beginning this year. A statement made recently by the chairman of the board of one of these companies predicts that within 10 years gas will enjoy 25 percent of the automatic refrigeration market.

Incinerators are a fairly new development in gas appliances, but we are selling increasingly larger volumes of incinerators. Although many electric incinerators are sold, we do not consider electricity in any way competitive with gas, either as to economy or operation. The principles of odorless, smokeless incineration is a feature that is impossible to achieve in electricity.

Of course, we do not do as well as we want to [852] in every respect. On new homes and on ranges the electric industry gives us a hard time. Even in new homes where we get the house heating and water heating load, we still too frequently lose the kitchen. We have builder men devoting their full time to working with contractors and architects, and these men cover every new building erected in our territory. We offer builders special allowances to install gas appliances to meet the low prices offered by electric manufacturers and utilities. We pay our builder men special bonuses for sales of appliances in new homes.

We are convinced, however, that through new developments in gas ranges, the modernity of gas and continued aggressive selling we are making gains. Gas ranges today offer as much in color and beauty as any competition and many advantages in cooking. The efforts of American Gas Association national advertising, local promotion and aggressive selling is reversing the trend. We sold more than twice as many gas ranges in 1959 as we did in 1952, but we still are not satisfied.

Q. How about commercial and industrial sales? A. Up until a couple of years ago we did not do as well as we thought we should. Then we reorganized this department, developed a load-building bonus plan and, as a result, last

year we added almost twice the revenue we had in any previous year. As a matter of interest, we [853] know of only one restaurant in our largest company area using electricity for cooking, and we installed in that restaurant two additional gas units on trial, and since then are in process of converting this restaurant to gas commercial cooking.

Q. What do your promotional efforts cost? A. In 1959 we spent over \$1,100,000 on this promotion, or a cost per customer of \$5.67. Local conditions, of course, affect the expenditures for promotion, such as size of the territory and the number of salesmen required, the number of newspapers in the company territory, whether weekly or daily, the number of desirable billboards, radio and TV stations, and so on. We use all of these facilities in our advertising, but within any company these expenses will vary.

The amount of new building has an impact on promotional expenses to a large degree, since it affects the number of new builder salesmen, both residential and commercial, and the amount of builder allowances where such plans are effective.

We have a policy whereby we will allow up to \$115 a home if the builder installs all gas appliances, and the allowances vary downward depending on whether he puts in a house heater, a water heater, a range or whatever.

To indicate that we are really serious about [854] our range business, which is the most difficult to sell in a new home, that appliance carries the largest allowance, next to a house heater. On top of that, our building men, as I said, receive a bonus for appliances installed in a new home, so they are individually doing their best to sell in competition with other fuels because it means dollars in their pocketbook.

Q. What is the largest item of promotional expense?

A. Salaries, commissions and bonuses. All salesmen, in-

cluding commercial and industrial, have a guaranteed base salary, but are largely compensated on an incentive plan. This point is important when considering the competitive aspect of our business because it would not make much difference what the management point of view might be construed to be, the salesman's bread and butter depends on what gas and gas appliance he sells.

The way our plan works out in general is this: a domestic salesman has a base compensation of about \$2,800 per year. Under our union sales contract we pay commissions of 6 percent on the installed selling price of appliances. We have salesmen who sell over \$65,000 per year, and none sell less than \$30,000, with our average around \$46,000. This means commissions of from about \$2,000 to \$4,000. On top of that, during periods that we campaign appliances, and that is every month except January, we have had further [855] incentives in the form of bonuses whereby a salesman may receive a set amount per appliance after selling a certain number of ranges, water heaters, house heaters or whatever appliance is being featured. The result is that during campaigns the more the salesman sells the more bonus money he receives.

The effectiveness of these plans is demonstrated by the fact that during 1959 we had salesmen making as much as \$13,000 in that year, and the average salesman made \$8,700. That's not bad for door-to-door selling. The same principle applies to commercial and industrial salesmen except that their bonus is based upon either MCF added or on net revenue added. The costs are all a part of our net promotional expenses, being charged either to our new business expense or to merchandising. Administrative salaries and expenses of sales managers and sales supervisors and clerical assistants are, of course, a part of our promotional cost and are necessary to supervise properly the activities of our 70-odd salesmen of all categories.

Hearing Examiner Ewell: We will take a short recess.
(Whereupon, a short recess was taken.)

[856] By Mr. Quarles:

Q. Before the recess we were talking about salaries, commissions and bonuses. What is the next biggest item of expense in promotion after salaries and commissions?

A. The next largest item is our advertising program. It was early recognized that the most effective approach would be for the Gas Division to employ its own agency. This agency works very closely with our sales organization and we consider their account executive a definite part of our selling organization. He and others from the agency always attend our sales meetings where campaigns are laid out and plans made for future selling.

The Harold Cabot and Company, Inc. agency of Boston prepares practically all advertising for the Gas Division, prepares all promotional material and directs marketing studies as authorized. The only advertising not originating with the agency is where company managers, at their discretion, place cooperative advertising with builders or dealers, and other minor advertising of a strictly local nature.

Q. What media do you use? A. Media used are newspapers, radio, TV, outdoor billboards, matching truck cards and bill stuffers. The advertising program is tied in to appliance sales campaigns held during the year and all advertising is pointed to the [857] sale of specific appliances.

Q. What is your annual advertising budget? A. Annual expenditures for advertising in 1959 amounted to about \$250,000. During 1960 we propose to spend an additional \$25,000 on general gas promotion advertising, in view of the considered need for combating the type of oil advertising that is now appearing. It is intended to devote more

attention to gas as a fuel, making a positive approach on the advantages of gas.

The cost per meter of advertising the Gas Division Companies is about \$1.35 per domestic customer. There is a variance in per-customer advertising costs in our own companies, this being affected by the number of newspapers, both daily and weekly, in the area served by each company.

Q. What other expenses are there? A. There are a number of other items of promotional expense that are important to the development of gas load. I mentioned our new building allowances, which are a major item in many of our companies. There are the expense of sales rallies, and the cost of sales training programs for our salesmen and the costs of dealer cooperation sales programs where in some areas we have men who are specifically working with dealers in our territory.

Hearing Examiner Ewell: You referred to some new type of advertising that the oil people are putting out now [858-9] that you feel you have to exert some specific effort to combat. Could you describe, in a few words, I am just curious to know, is that some new angle that I hadn't heard of perhaps.

The Witness: Yes, I will be glad to, because we really think it is very insidious advertising and something that is affecting the whole area of home heating sales. Their advertising program has been beamed in the last year or so almost directly to the safety of oil, as compared with the safety of gas for heating. They have in the New England area, and I don't know how general it is in other sections of the country, the sleeping baby symbol, which carries under it the words: "You can be sure they are safe if you heat with oil."

Hearing Examiner Ewell: Does that refer to house heating as well as water heating?

The Witness: Primarily house heating. As I say, it has

been a very insidious campaign, and it is having some effect on our selling. Of course, with the competitive angle as it is now, where oil and gas are at about the same price, something like that can turn the scale. Of course, I think that is going to work out to the disadvantage of both the gas industry and the oil industry, because along comes the electric industry and they are able to point out the fact, if they would be so insidious themselves, and I [860] am sure they wouldn't be, that there are explosions that occur in both gas and oil home heating.

The fact is, and this is something that we haven't been able to advertise because the information comes from sources that we aren't free to use, that nation-wide whereas the damage from gas explosions amounts to about two percent of the total fire loss of the country, in oil it runs better than six percent. So that their advertising is not completely honest.

Hearing Examiner Ewell: While we are on this little digression, I want to ask a question about the new gas refrigerators. Do the new ones come out so that they don't use water in cooling like the old ones, I believe, did?

The Witness: I have seen the new RCA Whirlpool gas refrigerator and the new Norge refrigerator, and I am certain that as time goes on they are going to be a very acceptable appliance. Yes, they still use water. The Norge is, practically, an improvement over the old Servel gas refrigerator. The RCA Whirlpool is a combination gas and electric refrigerator, as a matter of fact, because in their frost free box they actually use three fans.

Hearing Examiner Ewell: Do they use water also?

The Witness: They use water also.

Hearing Examiner Ewell: A continuous stream of water?

[861] The Witness: Yes. Well, the other reason that they are piping for water today is that with these new

automatic ice cube makers you have got to have a water connection anyway.

Hearing Examiner Ewell: All right; go ahead.

The Witness: Did I clear up the oil business?

Hearing Examiner Ewell: Yes.

By Mr. Quarles:

Q. Coming back to the sales promotion, how is the amount to be spent on sales promotion ascertained? A. The amount to be spent on sales promotion must be a matter of business judgment, but in the light of our sales results that start with the sale of an appliance and then are reflected in increased sales of gas resulting in increased utility revenues, it is apparent that we are getting good results from the money we spend.

Q. Can you give any comparison of your results with those of the industry generally? A. Yes. A recent tabulation prepared by the New England Gas Association, the trade association for gas companies in the area, reported that from 1952 through 1959 New England gas companies had increased their MCF sales by 132.27 percent. Gross revenues increased 70.07 percent and customers decreased 2.59 percent. According to a footnote attached to this tabulation, this represented 99.8 percent [862] of all New England gas meters.

Our own Gas Division companies averaged better than the New England gas industry as a whole. Where industry MCF sales increased 132.27 percent, ours increased 178 percent. Where industry revenues increased 70.07 percent, ours increased 95 percent. We practically held our own on customers, with less than one fourth of one percent loss against the New England Gas industry's loss of 2.59 percent.

The overall increase was pretty well spread over all classes of sales. I previously commented on the increase in house heating customers from 2-1/2 percent at January

1952 to 17.3 percent of our total domestic customers in December 1959. This does not represent all of our customers who heat their homes or apartments with gas because there are many small unit heater users who are better off on our domestic rate than on our househeating rate, who are therefor not classified as househeating customers on our records.

Due to the increased sale of house heating, water heating and other domestic appliances, there has been since 1952 an increase in domestic MCF sales of 157 percent and in domestic revenues of 94 percent. Commercial MCF sales in this same period increased 130 percent with revenues gaining 80 percent. Firm industrial sales increased 113 percent with revenues increasing 76 percent. As I stated a moment ago, we have just started in the last couple of years to really develop this business and we feel that if we can keep our costs within reason the future will show even larger gains in this area.

Q. How about off-peak or valley gas sales? [863] A. Until the advent of natural gas we had no so-called valley gas to sell in the form of industrial interruptible sales. The volume of gas sold on an interruptible basis in 1959 amounted to 1,046,000 MCF and represented \$430,000 of revenue. There is a limited market for this gas in our area. There is a very thin margin between the commodity price of gas from Tennessee and the price at which we can sell in competition with No. 6 oil, and this results not only in very small profit to the company but also, in many cases, it limits the amount the customer can justify paying for alternate fuel burning equipment. For example, the commodity price of gas is now 36.1 cents per MCF. On a fuel-for-fuel basis, if we sold this gas at 40.1 cents, the oil equivalent would be \$2.705 per barrel. Last summer this oil had a posted price in Massachusetts of \$2.64 per barrel. There are some types of industry where increased

boiler efficiencies, a better product and less maintenance make gas attractive in spite of an unfavorable price differential, and we explore every possible area to sell this summer valley gas.

Q. Have sales promotion results been substantially uniform as between NEES gas companies? A. No. Although the same amount of effort, the same advertising, the same compensation plan and approximately the same number of salesmen per customer are used by each of our companies, results within the several companies will [864] vary. Where one company produces excellent results in one area of the business, another will excel in other areas. Local economic conditions, local housing conditions, and local incomes, all affect the results.

Also, in any sales organization there are strong and weak salesmen, but this is to some degree under our control.

For instance, Lawrence in 1951 was a distress area economically and because of this and the fact that the textile industry used very little gas, industrial sales were less than \$10,000 per year. With the economic resurgence of the community and with the transition from a textile town to a city of diversified industry we sold last year \$271,036 in industrial gas. On the other hand, Mystic Valley has not been good industrial gas territory, but the commercial sales in this company have increased more than any other company except little Norwood.

Mystic Valley's commercial revenues have more than doubled since natural gas—last year's revenues being close to \$1,000,000 as compared with \$485,000 in 1951.

In the domestic sales field the smaller companies, with the exception of Norwood, are competing with associated electric companies and have done by far the best job in the domestic field. This can be attributed to several factors, but the principal one is growth in the territory and the large [865] percentage of new homes that are going gas.

In Northampton and Norwood over 90 percent of the new homes we can reach through our main-extension policies are going gas. It is also a fact, for some reason, that the nearer we get to metropolitan Boston, the tougher time we have to sell gas; this seems to be true for other companies as well as ours.

Q. I gather then that you feel sales promotion by the NEES gas companies has been aggressive and effective.

A. Yes, but we can never be completely satisfied. Since 1951 we have added load that with good operation has resulted in our earnings going from less than two percent to 6-1/4 percent on net plant last year. We still recognize that the only way to keep our rates at a reasonable level is to increase our load so that some of the increased costs can be absorbed through increased revenues.

And come what may, electricity, oil, coal, atomic energy or what have you, we will keep up the fighting to add gas load as much in the future as we have in the last seven years.

Q. Mr. Dalbeck, what is the single most important use for which you sell gas? A. As far as quantity goes, space heating; space heating accounts for roughly 55 percent of our firm sales. Also, as far as expansion goes, both in the recent past and in the near future, space heating has accounted and will [866] account for by far the greatest part of our growth in firm load.

Q. What is the most important energy source for space heating, other than gas, in New England? A. Our chief competition comes from oil; in the case of house heating it is number 2 oil.

Q. I show you a table entitled "City Gate Cost of Natural Gas for Space Heating vs. Retail Cost of #2 oil"; will you tell what that shows? A. It shows for each of thirteen cities the city gate cost of gas as compared with the cost of oil with an equal heat content. Columns 3 and 4 give

the demand and commodity charges in effect on January 1, 1960 for natural gas and column 5 gives the resulting cost per MCF at a load factor of 27 percent which is the approximate average load factor for space heating gas. Columns 6 and 7 set forth the retail cost of number 2 oil per gallon and on a basis equivalent in heat content to an MCF of gas. Column 8 shows the difference on an equivalent-heat basis.

Q. What is the source of the information in this table?

A. The figures information in columns 3 and 4 represent rates filed with the FPC; the figures in column 6 are Bureau of Labor Statistics, Retail Prices and Indices of Fuels and Electricity for January 1960. Columns 5, 7 and [867] 8 are computed.

Q. Was this table prepared under your supervision?

A. Yes, it was.

Q. Does it accurately set forth the information it purports to show? A. Yes, sir.

Mr. Quarles: I offer it as Respondents' Exhibit No. 67.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondents' Exhibit No. 67 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Does this table give an accurate direct comparison of the cost to a customer of heating by oil and by gas?

A. No. The city gate cost of gas is the wholesale cost to a distributing company. The price to customers must include the distributing company's other costs. Also this tabulation takes no account of the difference in efficiency between oil and gas. Furthermore, of course, we do not actually buy at 27 percent load factor; we find uses other than space heating which improve our load factor, and we make gas on the coldest days. These reduce the price we

pay for gas to something lower than the 27 percent load factor price.

[868] Q. Then what is the value or significance of this exhibit? A. The information in it is noncontroversial. What this exhibit shows is that if on any set of assumptions gas had a price edge on oil in New England it is a much thinner edge than in any other part of the country. It shows that the price of oil is substantially uniform from city to city.

On the other hand, as of January 1, 1960, the price of gas in Boston was highest in the country, and Malden next. The range is from 32.5 cents per MCF in Kansas City to 111 cents in Boston. The only reason for the difference between Malden and Boston is because they are supplied by different companies which have raised their rates at somewhat different times. As of April 5 this year, Tennessee raised its rates so that its price at Malden for 27 percent load factor gas would be 111.0 cents per MCF, as in Boston.

Q. I show you now a tabulation entitled "Tennessee Gas Transmission Company—Zone Rates Effective April 5, 1960". What does this show? A. It shows each of Tennessee's six zone rates for general service gas as of April 5, 1960. It also shows what these rates would be at 100 percent load factor and 65 percent load factor, and it also sets forth the special optional rate for small users, the GS rate, in each zone.

Q. What is the source of this information? A. The figures in the first two columns are taken [869] directly from the Tennessee Gas Transmission Company's eighth revised tariff, Volume 1, effective April 5, 1960. The third and fourth columns are computed.

Q. Was this tabulation prepared under your supervision? A. Yes.

Q. Does it set forth accurately the information it purports to show? A. Yes, it does.

Mr. Quarles: I offer this tabulation as Respondents' Exhibit No. 68.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondents' Exhibit No. 68 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. What is the significance of this exhibit? A. It shows for a single pipeline company how distance from the natural gas field directly affects prices. You will also note that it shows a greater relative increase in demand charges than in commodity charges, and therefore that the zone differential is greater for lower load factor gas. Thus in zone 1, the difference in price between 100 percent load factor and 65 percent load factor gas is 5 cents per MCF; in zone 6, which is New England, the difference is [870] 10.9 cents. This is what you would expect since in large measure the difference in cost is represented by the fixed charges on the longer pipeline required to supply natural gas to New England.

Q. Does this difference in the cost of gas affect your sales picture significantly in New England as compared with other parts of the country? A. Yes, it certainly does. I said that space heating makes up about 55 percent of our firm load. It is considerably higher in other parts of the country. Viewing it from the point of view of market saturation only 22 percent of New England residential customers are house heating customers, while in many parts of the country virtually every home which is within reasonable distance of a gas main is heated by gas. In some areas selling gas for space heating is no problem at all; the only question is how far you are willing to extend your lines for a customer clamoring to get on your system. The cost differential in favor of gas leaves considerably more room for maneuver than we have here in New England.

Q. I show you a table entitled "Table 137 - 1959 issue of 'Gas Facts' published by the American Gas Association." What does it show? A. It shows gas heating saturations for nine regions of the United States in the years 1952 through 1961, projected. It shows a 1959 saturation in New England of 21.9%, while other parts of the country show saturations [871] as high as 99.6 percent.

Q. What is the source of those figures? A. The table was published by the American Gas Association which is the principal national trade organization of the gas industry.

Q. What is the value of this exhibit? A. It gives an idea of the comparison between the househeating saturation in New England and in other parts of the country. While the New England gas companies have done a pretty good job in adding househeating customers since natural gas became available in 1952 and 1953, I am afraid that the competitive situation is now such that the estimates shown in the table for the years 1960 and 1961 are on the optimistic side. It will be noted that the increase in saturation in other parts of the country notably east north, central and middle Atlantic is still greater. These other two areas are compared since they buy gas from the same pipeline systems as New England. In these areas the competitive price of #2 oil is substantially the same as in New England but the city gate cost of gas is much less.

Q. Mr. Dalbeck, you referred to percentage saturation. What is meant by that? A. Percentage saturation represents, in this table, the number of gas customers who use house heating.

Q. The number per hundred? [872] A. Residential.

Mr. Nowlin: As compared with potential?

The Witness: No, it is the ratio of house heating customers to total domestic customers.

Mr. Nowlin: Off the record.

(Discussion held off the record.)

Mr. Quarles: I offer this as Respondents' Exhibit No. 69.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondents' Exhibit No. 69 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. What have the New England gas companies done or are they doing to help this situation? A. To a large degree, of course, the problem is inherent. It costs more to bring gas to New England. We have, of course, been fighting before the Federal Power Commission to protect our interests in each of the rate cases of our suppliers. This is a lengthy, costly and complicated business in which we find ourselves not only contesting our suppliers' cost and the return he should earn, but also fighting Tennessee customers in other zones.

A major problem in relation to space heating gas [873] is its low load factor, which gives rise to peak shaving. We do not have low cost underground storage pools in New England. We are presently peak shaving by manufacturing relatively high cost oil gas and LP air gas.

We have studies going to explore the possibilities of large volume storage of propane, and of liquefied natural gas. We are also studying advanced methods of converting coal or oil into a substitute gas. We have high hopes that out of these studies will come helpful solutions, but it would be unrealistic to expect that they can overcome the basic handicap of distance from the source of natural gas which will continue to be our basic fuel for many years to come.

Another area in which we attempted to improve our position has been to get a peak shaving service from the pipelines. For four winters prior to last winter, we obtained such a service from Tennessee. Unfortunately the Federal

Power Commission denied it as a permanent service and no form of storage service is likely now, at least in the near future. Algonquin has managed to provide a temporary Winter Service for the last two years, but permanent approval has not been granted.

Q. How has all of this affected sales and load growth in the NEES system gas companies? A. I believe we have done a good job since the advent of natural gas by way of expansion of good service at [874] reasonable rates. But this has been accomplished in the face of increasingly rough competition, and an inflationary economy. It has been our experience over the last few years that it requires about a 10 percent annual increase in MCF sales of gas just to offset the annual increase in wage rates, municipal taxes, and increased cost of materials and services.

This just keeps us standing still as far as the stockholders are concerned, and it requires more than a 10 percent annual increase to help them. Increases in this order of magnitude obviously must come largely from space heating sales. Since our retail rates for space heating gas are nearly equivalent to our competition, and the cost of gas is pressing harder all the time, it is going to take even harder work to maintain our position, let alone improve it. Specifically, unless the retail price of oil rises, which I see no reason for expecting in the near future, we will be unable to raise our space heating rate without slowing down our rate of increased sales. We are doing our best to control costs. We have been operating with a minimum organization all along, relying on the Gas Division to back up the local companies and on the Service Company to back up the Gas Division. There is not room to cut the organization any more.

Q. Does this have a bearing on the effect if NEES [875] were to be directed to dispose of its gas companies or properties? A. It certainly does. We are just not in a

position to absorb increased costs or loss of economies as gas companies in other parts of the country may be. I am unable to foresee all of the effects if the gas companies were severed from the NEES system, but I do know that our problems in competing would be immensely complicated.

Q. You have talked a good deal about the low load factor of space heating gas. Is it possible to improve the load factor at which you purchase from the pipeline by selling Summer Valley Gas on an interruptible basis? A. Yes, but as I explained previously the price at which we can sell this gas, in competition with number 6 oil, is only very slightly more than Tennessee's commodity charge, so that such sales hardly reduce the price we have to charge our firm customers at all.

Q. Mr. Dalbeck, you have referred from time to time to the subject of regulation by the Massachusetts Department of Public Utilities. Does that Department have regulatory jurisdiction over all the NEES system gas companies? A. Yes, it does.

Q. Does it also have regulatory jurisdiction over the affiliated electric companies operating in the same territory as the NEES System gas companies? [876] A. Yes, it has jurisdiction over all electric companies which sell electricity at retail in the Commonwealth of Massachusetts.

Q. What are the principal areas of regulatory jurisdiction of the Department? A. We are principally regulated as to rates, financing, accounting and service.

Q. What does the regulation of rates consist of? A. In the first place, we must file our rates and we are prohibited by law from charging in excess of the filed rates. We can make special contracts with particular customers, which we also must file, but there must be special grounds for these contracts so that they do not amount to discriminatory preferential treatment of the customers involved. In addition, the Department has authority to investigate the

reasonableness of filed rates, on its own motion or on the complaint of customers.

Furthermore, in the case of newly-filed rates the Department has power to suspend their effective date pending investigation. When new higher rates are filed, the Department invariably does suspend their going into effect and conducts an investigation in which the burden is on the company to justify the changes proposed.

Q. Mr. Dalbeck, are the rates for all these companies the same? [877] A. No, sir they are not. Rates for each of the companies have been established historically through the years, and although the low step for the house-heating rate is the same in each company, rates in the upper blocks vary to a degree.

Q. What is the jurisdiction of the Department with respect to financing? A. None of the gas companies may issue securities without the approval of the Department. The justification of proposed securities issues falls primarily on the Treasurer, the Service Company and the Treasury and corporate department, and the company President.

Q. What does the Department's regulation of accounting amount to? A. The Department has complete jurisdiction over all of our accounts, and audits our fixed capital additions prior to financing. Its Classification of Accounts has to be the "bible" of our treasury people. Our Treasury Department prepares the annual Return required by the Department for each Gas company.

Q. What does regulation of service consist of and how is it handled? A. This phase of regulation includes periodic tests of our gas for heat content and purity, periodic testing of meters, safety standards of operation and construction [878] and the like. These matters usually involve direct contact by a Staff Engineer of the Department of Public Utilities with the Manager or Superintendent of the

local company, and with the Assistant to the President for Operations.

Q. Mr. Dalbeck, are there important contacts with the Department aside from formal proceedings? A. Yes, there are. The Vice President of NEES in charge of Retail Company Operations, my Assistant to the President for Marketing and Supply and I all meet informally from time to time with the Department to advise them of problems that face us and to talk over what we propose to do about them. Last fall we reviewed informally pipeline rates, peak service, gas producer regulation, and what our gas companies were doing to protect the interests of their customers. The head of the Service Company Rate Department is in frequent contact with the Staff of the Department, as are treasury people of the Service Company. All of these contacts promote informed and effective regulation on the part of the Department.

Q. In your opinion, Mr. Dalbeck, would these contacts be maintained in the event that the Gas Division companies were split off from NEES? A. Not to anything like the same degree. The immediate pressures on the management of any small independent gas company make it highly unlikely that it would be done. Such [879] a management would have no personnel in a position to have the knowledge or the time to be fully familiar with the many problems of regulation in the way that our system specialists can do. Also there are many contacts with the Department that involve problems affecting all gas companies so that one conference with the Commission or staff may answer for eight companies.

For instance, our rates contain escalation clauses that permit us, with the approval of the Department, to increase our rates as the pipeline increases theirs. The last increase was April 5th, and at a conference with the Department prior to that date, attended by Mr. Krause of the NEES

system, Mr. Calvert, the Rate Engineer of NEPSCO, our Vice President in charge of Marketing and Supply and myself cleared our new rates for all companies in a couple of hours. Individual conferences on each company would have multiplied this conference by eight and involved eight different managers and what personnel they would need to discuss these increases.

Q. Mr. Dalbeck, returning for just a moment to rates, will you give a brief description of the gas companies' rate setup? A. Our filed rates are block type rates. In all companies except Lynn, there is a Residential Rate (K), a House Heating Rate (L) and a General or Commercial and Industrial Use [880] Rate (M). The House Heating Rate which is available for all domestic purposes to a customer heating his entire premises with gas, is also made available to Commercial or Industrial customers for space heating, air conditioning or large volume water heating, but not for other uses. The House Heating Rate is the lowest.

Lynn has a single rate (J) for all domestic uses, and a General Rate (M) for Commercial and industrial customers. Lynn also has a Building Heating Rate (K) for commercial and industrial space heating and large volume water heating.

Q. Aside from general increases or reductions on account of overall operating results, how do rate changes get initiated? A. We are continually meeting situations, usually competitive, in which our filed rates turn out to be non-competitive. Usually the situation comes to light first on the firing line. A salesman loses a prospective customer or the company loses an existing customer. The manager, after studying the situation then calls in the Assistant to the President for Marketing and Supply, and between them, with the help of the Service Company Rate Department, a

conclusion is reached on whether a rate modification should and can be made that will enable us to get or hold the business without losing too much revenue from other customers.

[881] After a change is worked out, if it is then approved by the President and the NEES Vice President for retail operation, the Rate Department prepares the change for filing with the Department of Public Utilities.

Q. Are your filed rates reviewed regularly? A. Yes. The Assistant to the President for Marketing and Supply, and the Service Company Rate Department both regularly review them, the former particularly for their effectiveness in getting new business and producing needed revenues, and the Rate Department for inequities and for simplification. The bill frequencies supplied by the local companies' Billing Departments are the basic tool used by the Rate Department in their rate design work. *

Q. How are the Special Contracts designed, negotiated and made effective? A. The occasion for one of those usually comes about when the Commercial and Industrial Sales Department of one of the companies or the Manager, comes up with a prospect for a large volume of gas and early contacts convince them that the customer cannot be sold on the filed rate. The next step is that the local company puts the facts before the Assistant to the President for Marketing and Supply, and he studies the problem with the local company. For example, one of our companies was approached by a large lens manufacturer who was considering whether to locate a new [882] plant in our territory or in another state.

He stated that a major consideration was the price of gas and that the price had to be about half of our filed rate. The prospective load involved was potentially very large, so that it was important to the company both from the standpoint of direct revenues and also for the secondary

effect on account of the benefit to the community. A rather detailed study indicated that the prospective use had a very high load factor for which we could buy gas at a lower-than-average cost. This justified a lower rate and made it possible to design a demand and commodity type rate that would give the customer a cost of gas he could accept and still guarantee to the company the revenue it had to have to support the investment in a line to service him.

At the request of the local company, the Assistant to the President for Marketing and Supply handled the negotiation of this contract and a supplemental one for interruptible gas. Altogether negotiations extended over a year and a half before the two contracts were successfully executed. During the initial phases, the Assistant to the President worked closely with the Service Company lawyers in drafting the contracts. The Rate Department filed the contracts with the Department of Public Utilities. All special contract cases are not as complicated as this one was, but they all involve the Assistant to the President [883] for Marketing and Supply and the Service Company lawyers and Rate Department. We have in some cases even received valuable help from the Service Company Power Sales Department, drawing on their long experience in the field of special negotiations for the sale of electric power.

Q. Did you participate in the work in connection with this study which Mr. Quig has described? A. Yes, sir.

Q. Will you describe the nature of your participation? A. I was consulted as to its scope, as to the Pro Forma organization suggested in these findings, and I reviewed with the Ebasco organization their findings, both as to personnel and changes required to operate segregated gas companies completely independent of electric. I discussed with many of the Ebasco personnel the operation of the

gas companies as they now exist, including methods, personnel and relations between the local companies, the Gas Division and NEES. I arranged for them to interview our key personnel, both in the Gas Division and in the local companies. We prepared in the Division office maps of our territory and other basic data that they requested. I consulted with them on all phases of their proposed findings and discussed with them the relationship between our present organizations and the organization as finalized in their reports. We discussed not only personnel but present and proposed space, [884] equipment and operations that would be cut away from existing joint operations.

My participation in the Ebasco study began with the first discussions as to their assignment and continued right up to the time their report was put in final form but was, of course, confined only to the gas company.

Q. Is their description of the NEES System gas companies as of January 1, 1959 accurate? A. Yes, sir.

Q. Have changes in these companies been material since January 1, 1959? A. Not insofar as the physical data on plants, the territory served, gas supply or operating conditions, particularly with reference to joint functions.

There have been some changes in organization and personnel due to retirements and re-alignment of responsibilities at the local level to produce increased efficiencies. The organizations, however, are essentially the same as to the total number of employees and the changes are not material with respect to this study.

It is interesting to note, for example, as shown in the Central Massachusetts Ebasco study househeating customers which were 2,155 or 23½ percent of total domestic customers have now reached 28 percent. This same relative increase appears in most of the other companies. For instance, Lawrence which shows 7,955 or 25½ percent [885] in the Ebasco study now has a saturation of 30 percent.

Although the figures shown in these reports are correct, in one year substantial changes have occurred, both in the swing of customers to househeating and in increased revenues.

Q. Is the form of organization as outlined by Ebaseco substantially correct? A. Yes. Their description of the organization is correct as of January 1, 1959. There have been some minor changes and modifications of organizations since that time, but they are not material.

Q. The Ebaseco reports include a payroll analysis at January 1, 1959. Are these correct? A. These have been verified and they are correct both as to the number of employees and base salaries and wages. Those shown in the column "Part Time" are employees on the payrolls of other companies also and the amounts shown represent the proportionate amount on each company. The amounts shown do not include overtime where applicable, or salesmen's commissions and bonuses, only base pay.

Q. Have you reviewed the executive, administrative and staff organization as described in Volume 1? A. Yes. Each description is only a brief summary of the duties. With the exception of the Treasurer, Assistant Treasurer and the Clerk, I have covered their duties in much greater detail in previous testimony. I have also covered, [886] in greater detail, the engineering functions. The summary of employee benefits is in accordance with our union agreements and System policy.

Q. How about production distribution and utilization? A. The summaries for these departments as set forth in the Ebaseco reports are correct. However, I would point out that, because of local operating conditions in our gas and electric companies, there are different procedures in almost every company. This can be due to the size of the company, the location of the operating departments, the number and type of gas plants and the equipment in use

in each company. These differences are described in the report.

Q. What about Treasury and Accounting? A. I am familiar with each gas company's accounting organization, and the descriptions and conclusions arrived at contained in the Ebasco report are completely correct.

Q. How about Other Activities? A. The Ebasco report outlines the facts pertaining to each company. Here again, operating conditions and local personnel and procedures vary. For instance, the size of Worcester County Electric Company justifies an insurance and medical group of five employees, which gives to the small Central Massachusetts, Wachusett and Northampton Gas Companies the benefit of this larger organization. In the Mystic Valley Gas Company, however, due to the fact that [887] both electric and gas managers are on the same floor and the Treasury Department is in the same building, these functions are carried on by personnel on the payroll of one company or the other.

Q. Will you now discuss that phase of the Ebasco-report that deals with the effect of severance? A. As will be noted in each of the company sections, the effect of severance varies with each company. This is due principally to the size of the company, but other factors may also affect the cost of severance.

Q. What are these other factors? A. The cost of severance will be governed by many other conditions. If electric is now occupying gas owned buildings, rentals will be lost to the gas company and vice versa. Whether a company operates only in one small area out of one office, as do Norwood and Northampton, or operates out of more than one office, as do Wachusett and Central, will affect the separation.

On a larger scale, Lawrence Gas, occupying one office owned by the electric company, will incur a substantially

different cost than North Shore Gas with two gas company owned offices in Gloucester and Beverly and a rented office with the electric company in Salem.

Another item that will vary between companies is the separation of mobile radio equipment. This is no problem [888] in Mystic, as the electric and gas companies in Malden have separate towers, separate frequencies and separate transmitting facilities.

In Wachusett, however, the gas company, although operating on separate frequencies, shares the radio tower with the electric company.

In Lawrence, however, radio is a completely joint operation with one frequency, one tower and one transmitter for both companies. Another item is the cost of stores operation, where practices vary. Mystic and North Shore have completely separate stores at different locations, whereas Lawrence and Northampton, for instance, are in the same building and operate as one combined gas and electric stockroom. There are many differences in procedure in Treasury and Accounting, but I will pass these for another witnesses. The point is that each company's Pro Forma operation had to be considered in the light of existing and projected conditions as they pertain to that particular company.

Q. Have you considered the Pro Forma payroll in relation to existing conditions? A. I have, and in order to bring these Pro Formas into better perspective, I have summarized the actual payrolls at January 1, 1959 with the Pro Forma payrolls as projected in the Ebasco reports.

[889] Q. I show you a sheet entitled "Personnel Analysis—Pro Forma as of January 1, 1959, Summary of Total Employees by Departments" and ask you to describe it.

A. This schedule shows for each gas company the personnel at January 1, 1959, segregating part time and full time employees that are shown in the Ebasco reports. It

also shows for each gas company the Pro Forma organization as prepared by Ebasco. It is a summary of the personnel analyses of the Ebasco report and is intended to bring these various analyses into focus in one place.

Q. Does it accurately set forth the information it purports to show? A. Yes.

Mr. Nowlin: Mr. Dalbeck, may I inquire, is this supplementary to the Ebasco report?

The Witness: Well, it is not exactly supplementary to the Ebasco report, but these are figures that have been developed from the Ebasco report.

Mr. Nowlin: Well now, "pro forma", you mean by that gives effect to the separation of the properties?

The Witness: Yes, sir.

Mr. Quarles: I offer it as Respondents' Exhibit No. 70.

Mr. Nowlin: Mr. Dalbeck, may I ask one more question. We are not familiar with the Ebasco report, which [890] I am sure you realize. As I understand it, there has been a study made of the separation costs incident to each individual company?

The Witness: Yes, sir.

By Mr. Nowlin:

Q. Then there has been a study of that that has been converted to the cost of separating, assuming that all of them are collective or combined, am I correct in that? A. Yes.

Q. And these figures here would only pertain to the individual cost of the separated companies rather than the combined companies? A. That is correct.

Q. There has been a study made of the separation cost of the companies, assuming they were combined, has there not? A. Yes.

Mr. Nowlin: Mr. Examiner, I will not object to it at this time, but I reserve complete freedom to question any items and to move to strike at some later time.

Hearing Examiner Ewell: I will receive it.

(Respondents' Exhibit No. 70 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Will you explain the differences between the actual [891] and pro forma? A. The differences, as you would expect, are principally in the Executive, Administrative and Staff group and the Treasury and Accounting group. Under our present operation there are many part time employees who are on the payrolls of more than one company, except in Lynn where the part time employees were all in combination with the electric department. In explaining this schedule it will be easier to follow if I defer the discussion on Lynn, since that is a special situation.

Q. Before discussing the differences between the actual and pro forma in the Executive-Administrative group, will you point out any changes in other departments. A. For the most part, the operating departments will continue to function with the same personnel as at present. Production, Distribution and Service and Garage departments reflect the same organization under the Ebasco pro forma statements as at present.

In utilization, Mystic Valley will have to add two employees. One is to replace the part time supervisors now in charge of the Service Order Center, this new employee to be classified as an Order Clerk and supervision to be assumed by present personnel. The other employee is the Utilization Engineer now in the Gas Division. Mystic with its 99,000 meters and 88 Utilization department employees [892] can certainly justify this type of an engineer. No other company can, however, and the valuable services he now renders to other gas companies in testing appliances, training service men, operating service schools and passing on knowledge of servicing new appliances would be lost to the other seven companies.

In Lawrence a Senior Clerk has been added in the pro forma organization to carry on the maintenance of meter records, shop testing and schedules for periodic testing which are now performed jointly with Merrimack-Essex. An additional employee has also been added in Central Massachusetts and Northampton for the same reason.

Under the New Business Department the present organization continues as is except for Mystic Valley. In Malden there is a combined gas and electric display department of four men and Mystic would require two of these in the pro forma. Certainly a reasonable number when it is considered that due to the larger territory gas has more stores than the electric.

In branch stores in Medford, Revere, Melrose and Everett, there are part time employees jointly with electric and to cover the stores (or comparable stores) would require three more full time employees. This is reflected in the Mystic New Business Department which now has, as shown on here, 55 full time employees, showing 60 [893] on the pro forma.

As can be seen from this exhibit, comparing present personnel with pro forma, it is apparent that in the local organization the greatest impact of separation of the gas properties will be in Customer and General Accounting. Where gas and electric customers are served jointly there is a very close coordination of gas and electric accounting. Customer contacts, meter reading, meter books, billing equipment, credit and collections and bookkeeping are all handled on a combined basis and the separation of gas and electric accounts will result in substantial increases in personnel, in space and in equipment. I am familiar with our present operations in the field of accounting and I am satisfied that the personnel in the Customer and General Accounting pro formas are substantially correct.

Q. Will you explain the part time employees? A. The employees shown on this exhibit as part time employees in the Executive, Administrative and Staff group include 14 employees who are Gas Division personnel in the Ebasco Report. In addition there are four part time Treasury employees in this group in Mystic Valley, five Treasury employees and a Personnel Director in Lawrence, the same in North Shore, plus a part time Safety Director.

In Central Northampton, Norwood and Wachusett at the time of the Ebasco report, a vice president was part [894] time in these companies. In Northampton, in addition, there were five Treasury personnel part time and a Transportation Supervisor. Norwood also has four part time Treasury personnel on their payroll. The full time personnel are in all companies, the then existing local operating executive, administrative and staff personnel.

Q. How did you test the reasonableness of Ebasco's projections of the Executive, Administrative and Staff group? A. I first prepared a summary of the pro forma personnel for each company. This enabled me to make comparisons of both number of personnel and money.

Q. I now show you a sheet entitled "Summary, Ebasco Report, Gas Companies, Personnel Analysis, pro forma as of January 1, 1959, Executive, Administrative and Staff, etc. Does it accurately set forth the information it purports to show? A. Yes. This is a summary taken from the Ebasco studies of each company showing in columnar form for each company the personnel included by Ebasco in the Executive, Administrative and Staff group.

Q. Was it prepared under your supervision? A. Yes, sir.

Mr. Quarles: I offer it as Respondents' Exhibit No. 71.

Mr. Nowlin: Mr. Examiner, subject to the reservation I just stated with respect to Exhibit 70, I will [895] not raise an objection at this time.

Hearing Examiner Ewell: I will receive it.

(Respondents' Exhibit No. 71 was marked for identification and received in evidence.)

By Mr. Quarles: Are you in agreement with the conclusion arrived at as to increased personnel? A. I am. As I have indicated, I participated in this study from the beginning and I am satisfied that the personnel shown in the Ebasco report and summarized in this exhibit which has just been offered would be required.

Q. On what do you base this opinion? A. On my knowledge of the gas organization as it now exists, I am sure that the present local company personnel could not absorb additional duties of the kind now performed either by the Gas Division or the System as a whole. I have covered in our testimony the many functions performed above the local level and in order to do the work essential to a gas company operation additional executive, administrative and engineering personnel would be absolutely necessary to supplement existing employees.

Q. What check did you make on the size of the pro forma organization? A. First, I have had previous experience with straight gas companies and I have a pretty good idea of what organization [896] would be required for these gas companies, based upon their size in relation to other companies I have worked with.

Second, I have compared the Ebasco pro forma organization with other gas companies in our area and I have found that the pro forma organizations are consistent with other companies and if anything on the conservative side.

Third, the total number of employees on these pro forma statements is consistent with the size, territory, type of gas plant operation and number of meters of these companies.

Fourth, when comparing the pro forma costs with other

Massachusetts gas companies, we compare very favorably and, in fact, still show in most instances lower costs.

Q. Are you in agreement as to the salaries shown on the Ebasco pro forma statements as summarized in this exhibit just introduced? A. Yes. The amounts shown for existing personnel carried to the pro forma statements are the rates at January 1, 1959. Added personnel in treasury and accounting are at rates existing at the time. Executive and administrative personnel have been conservatively estimated in relation to the pay of comparable individuals in other gas companies in the State. We know what those salaries are and in no instance are we excessive.

Q. Will you now review this exhibit and give us in [897] more detail the reasons for your agreement with Ebasco's conclusions? A. The size of each company is, of course, the dominant factor in the number of personnel, the responsibilities of the personnel and the salaries it would have to pay.

Salary amounts shown on the pro forma projections are consistent with comparable positions in the New England gas industry. Based upon my knowledge of other companies' salaries, these amounts are certainly not the maximum in relation to the size of the companies. In fact, there are smaller companies paying more.

Q. To be more specific, do you agree with the salaries shown for each president as summarized on this exhibit as taken from the Ebasco reports? A. I do. As I previously stated, the salaries should be commensurate with the responsibilities of the office and that is controlled to a large degree by the size of the company. My opinion, based upon knowledge of comparable salaries in other local utilities, with particular reference to Lawrence, Lynn and North Shore, is that these are on the light side. Mystic Valley is also shown at a lesser figure than other companies, but not to the extent of the others I have mentioned.

In the smaller companies, the amounts appear to be reasonable in relation to the size of the companies, but [898] I frankly doubt that qualified men could be found at these figures.

It must be borne in mind that each of those companies under separate management would place on these officers substantially increased responsibilities in the field of financing, accounting, engineering, relations with regulatory bodies, rates and many other functions now being carried on by NEES.

Q. How about the Vice President in charge of operations? A. In a company the size of Mystic this individual would of necessity relieve the President of many details he would be unable to handle, both on a day to day basis and on special projects that constantly arise.

He would have full charge of engineering, construction and all operating departments and would continue many functions now being performed both at the Gas Division and Service Company level. In Mystic he would not, in my opinion, have the time to devote to new business and marketing. However, in Lawrence, North Shore and Lynn, these companies being smaller, the Vice President would also have over-all responsibility for all sales, including industrial, commercial and special contracts.

In the four small companies you again face the problem of size and have the President, with what assistance he might get from even the engineer or General Superintendent, [899] would carry on all the duties of the President and Vice President of the larger companies.

Q. How about engineering? A. The organization of the pro forma Mystic Valley Gas Company includes seven engineers as compared to the thirteen engineering personnel of the present Gas Division. One of these would be in the Utilization Department and the others in the Executive and Administrative group. As Mystic represents about

one-half the total meters of the Gas Division (excluding Lynn) has four meter stations to receive gas from Tennessee, two LP Air Plants and an Oil Gas Plant, together with a complex distribution system, there is no question but what with current engineering problems and long range planning these would be the minimum required. Twelve engineers will be required in the other gas companies so the total engineering personnel requirements will be well in excess of the thirteen engineers of the Gas Division.

Hearing Examiner Ewell: Off the record.

(Discussion held off the record.)

Hearing Examiner Ewell: We will adjourn for lunch and reconvene at 2:00 o'clock.

(Whereupon, at 12:55 o'clock p.m., the hearing in the above entitled matter was recessed until 2:00 o'clock p.m. of the same day.)

[900]

AFTERNOON SESSION

2:00 o'clock p.m.

Hearing Examiner Ewell: We will resume.

Whereupon,

HAROLD L. DALBECK

resumed the stand and testified further as follows:

Direct Examination (Resumed)

By Mr. Quarles:

Q. What functions would the Personnel Department perform? A. Again referring to this exhibit, it will be seen that Mystic Valley is provided with a Director of Personnel and Assistant. In a company with over 400 employees, we know from experience that the problems involved in hiring, training and dealing with employees' problems, both on a company and personal basis, are exacting and time-consuming.

ing. The time involved in labor matters as a result of negotiations and grievance procedures is substantial. Employee communications, medical assistance and safety, which are so important to the employees' protection also involve a great deal of time and effort. The records that must be maintained on personnel, relating to the employee history, progress, absenteeism, and health would be covered by this department. I am in complete accord with the Ebasco Study which includes a Personnel Group of this size in Mystic.

[901] Moving over to the other companies, no personnel department is provided for, but these duties would still have to be performed in Lawrence, North Shore and Lynn, under the direction of the Vice President, with details handled by the Executive or Administrative Assistant. In the four small companies much of this work would be handled by the General Superintendent.

Q. How about the General Superintendent? A. Each company now has a General Superintendent and, of course, under any operation, this position must continue. The rates shown for the four large companies are in line with present salaries paid. This appears to be in order, because the responsibilities of these men will continue about as at present. The rates projected for the small companies' General Superintendents are in order because, although they are higher than our existing rates, it must be borne in mind that on their own, as independent separated gas companies, they would have substantially increased responsibilities and duties, with no group to back them up on plant operation, maintenance, breakdowns, load estimates and forecasts and the many other problems that now get answered by a telephone call and a visit by experienced personnel from the Gas Division.

Q. Why is there only one local manager projected?
A. In the North Shore Gas Company we have offices in

[902] Gloucester, Salem and Beverly. Gloucester has an LP Air Plant and we maintain service and a distribution crew in that area. Accordingly, it is considered advisable to maintain in that district a local manager. This person would also sell commercial and industrial gas. No other gas company has this condition.

Q. Why is there included a Vice President in Charge of Marketing in Mystic Valley only? A. Here again it is a question of the size of the company and just how much other executives can do. This position, in my opinion, would have to be filled in Mystic Valley and I base my judgment on what I know of its present operations and on what constitutes the personnel of other gas companies. The negotiation of special contracts, dealings with the pipeline company, direction of the gas promotion and sales program in all areas would certainly require a highly trained and well qualified person in this, the second largest gas company in New England, and the largest in New England purchasing gas from Tennessee Gas Transmission Company.

I am certain that Mystic could not afford to be without such a position and it would require a salary no less than what Ebasco has allowed.

As we move on down in company size, it will be noted that no provision has been made for this position, [903] these responsibilities being undertaken in Lawrence, North Shore and Lynn by the Vice President of Operations and in the small companies by the President.

However, in these other companies, with the exception of Norwood, a Sales Manager would be provided. His duties would be the direct overall supervision of all classes of sales and the formulation of advertising and sales plans as determined by policies established by the President and Vice President.

Q. Mystic and Lawrence show in the Ebasco report an

Executive Assistant, and North Shore and Lynn an Administrative Assistant. Why the different titles and what would be their duties? A. In Lawrence the Executive Assistant is a continuation of an existing title. The same thing is true in North Shore and Lynn. Actually, their duties cover the same field in all companies. This position has to be added in the Mystic Valley organization. I have briefly outlined the duties of executives as they would perform in a separate gas company.

There are many problems constantly coming up that require special attention. Rate cases, hearings before FPC on pipeline matters, special studies involving research, all require the attention of a well qualified staff assistant who can be made available to assist any executive in the [904] formulation of future plans in research on rate, labor or regulatory matters and in maintaining day-to-day and month-to-month statistics or reports on subjects vital to his superiors. Certainly such an Executive Assistant would be an essential in those companies that are large enough to warrant such a person, and those four companies would, in my opinion, require such an individual.

Q. Have you any comments on Treasury and Accounting personnel? A. There is no question in my mind that the personnel assigned by Ebasco in their reports will be required because of the split off of general accounting offices, the increased responsibility of treasury personnel in financing, stock transactions, tax matters, insurance placement and control, etc. These are now all performed by System personnel. The amounts for this personnel are reasonable.

I feel qualified to make this statement due to my previous connections with the Treasury Department. When consideration is given to the fact that from the Treasurer of NEES, who is also Treasurer of each company, right down the line through all staff functions of Treasury and

Accounting, each separated gas company would have to carry on and provide for these services for itself, it is evident that the impact of all these added responsibilities and duties will create in each company a substantial treasury and [905] accounting load. In my opinion, the treasurer, auditor, accountant, assistant treasurer-clerk, and chief accountant who are the personnel included in this pro forma study of Ebasco are a minimum.

In fact, in other than routine day-to-day financing and accounting problems most of the gas companies would have to go outside for consulting services on special problems such as auditing, stock and bond issues, rate cases, etc.

Q. In summarizing the Executive, Administrative and Staff personnel, what is your opinion of the end result?

A. When taking the total of the Pro Forma personnel and including estimated expenses and payroll taxes and fringe benefits, and deducting from this total the present salaries and expenses of the Gas Division, local office charges in some companies and Service Company billings, the net result, in my opinion, is reasonable and conservative. Increases, where they are included in the Ebasco reports, are most definitely conservative. To operate independently, separated gas companies with Executive, Administrative and Staff personnel, as assigned in these reports, would certainly be a minimum requirement, and I am sure that many advantages these companies now enjoy would be definitely lost.

It should be emphasized furthermore, that a comparison of the dollar figures for executives, administrative and staff personnel does not show the whole effect of [906] separation, since the pro forma executive, administrative and staff groups would not be able to perform all the functions now performed by existing personnel.

Q. Do you consider the estimated space requirements set forth in the Ebasco report to be sound? A. I consider

them to be sound. The amounts included in their reports are based on facts as of the date of their report. On the larger company owned buildings, both electric and gas, charges for space have been generally made on the basis of the total cost of operation allocated to each company in accordance with its use. Rentals paid on jointly used properties have also been based on the space occupied by each company.

The Ebasco report has calculated costs for space of a separated company beyond that of buildings owned by the company, at \$2.00 per square foot for offices and stores, plus 75 cents per square foot for utilities and maintenance, and \$1.00 per square foot for garages.

Before construction of our own service building which we built two years ago or renting any new space, we checked the market on available structures, so we have a good idea of what rentals are in an area. Based on our experience and knowledge of space costs, I would say this is a conservative figure.

We made test checks to verify rental figures and [907] we agree with their conclusions that the method which they have used for costing space is reasonable. I have also considered the projected reallocation of space which would take place upon severance, and I am satisfied that the projections in this respect are sound.

Q. Have you any comment on increased insurance costs?

A. I have made no personal checks on insurance, I understand, however, that because of the increased amounts shown in each Ebasco report these figures have been verified by Ebasco, our own Insurance Department and independent brokers.

Q. How about other transportation costs under a separate operation? A. In those cases where garages have been operated jointly, it is certainly true that splitting of the companies will result in increased costs. Added to

this is the fact that with larger organizations at the local level additional auto equipment will be required, and I agree that the increases shown in the Ebasco reports for transportation costs are reasonable.

Q. Will you comment on professional services? A. In comparing the amounts shown in each Ebasco report for accounting services with those costs that are now paid NEPSCO for similar services they appear to be modest. Here is one place where company size does not make [908] much difference. Each company must file federal income tax returns, state excise and certificates of condition and have a complete audit. So the \$1,800 or \$2,000 increase for auditing expenses are certainly reasonable. As far as legal expenses are concerned, this certainly is subject to fluctuation. One lengthy rate case could take a large part of any allowance Ebasco has made for legal services. Any independent company would certainly expect to pay more than at present for legal services because no one counsel could be as familiar with all phases of utility law and the companies as the combined knowledge of the NEPSCO Corporate Department. This alone would tend to increase legal costs in a single company.

I must say that what legal services will cost a separate company is a matter of opinion, but I do feel that Ebasco's figures are moderate and reasonable.

Q. Will you comment on Miscellaneous Costs? A. None of the items mentioned in this group are substantial in amount. However, I have reviewed all of these reports and I am in agreement with their conclusions of present operations and their costs. Certainly both the gas and electric companies would have to increase their investment in office equipment.

A major item I can cite as an example is the Kardex customer history and service record now maintained jointly

at Malden for Mystic and Suburban, at Lawrence for [909] the two companies there, and at Northampton.

Each cabinet contains a slide with pockets, and in each pocket is the combined history record of each gas and electric customer. A separation of the companies using this record would require that each company invest double the amount of the present installations. This same procedure will result in increased billing equipment, increased bookkeeping desks, other desks, files and other equipment. I would, therefore, agree that the provision for depreciation is reasonable.

The same principle of increased costs will apply to telephone service. In every joint gas and electric operation one switchboard handles both gas and electric calls. As a matter of fact, one call from a customer who is moving results in a transaction affecting both gas and electric. Accordingly, there would be practically no change in the size of a switchboard, although individual stations in the office would decrease. Therefore, the amounts included in the Ebasco reports relative to combined operations are, in my opinion, in line.

Other miscellaneous costs, such as elimination of charges for the Mystic Valley Service School, printing of customers' bills, stock transfer costs, increased tabulation machine rentals and billing costs in Mystic Valley all represent services now performed jointly that would have to [910] be assumed on an individual company basis, although none of these do represent substantial increases.

Q. In your discussions of Pro Forma changes you have not explained the Lynn situation. Why? A. The transition from the Lynn organization at January 1, 1959, to the new Pro Forma gas company, represents different conditions than occur in the other gas companies. While each of the other gas companies was a separate and distinct corporate entity, Lynn, at January 1, 1959, was a combi-

nation gas and electric company. Accordingly, 274 of the total of 336 employees who devoted time to gas operations, were part time employees of the gas department who also allocated time to the electric department. The transition, therefore, from a combination gas and electric company to a separated gas company, represents a situation substantially different from other companies.

The Lynn Gas Company is now a separate corporate entity and the actual personnel now in the Lynn Gas Company actually coincides closely with the Pro Forma organization, as shown by Ebasco, in the production, distribution, utilization and new business departments. Accordingly, the Pro Forma gas company would continue to require the services now being performed by personnel now on their payroll.

In addition, if the Lynn Gas Company were organized to operate on a separated, independent basis, the same [911] assumptions would apply here as in other gas companies.

I have covered in some detail the organization that would be required in the seven Gas Division companies as compared with our present organizations. If you will refer to the Lynn Gas Company pro forma personnel, you will note that for the most part they coincide closely with the organizations proposed for the other companies, both as to number of people and salaries. In this connection, however, it should be noted that Lynn Gas is a larger operation than Lawrence or North Shore, so that some of the differences are accounted for by the larger size of the company. The only department that might require some explanation is the Utilization Department.

Lynn Gas is the only NEES gas company that installs appliances. This work in other companies is done by plumbers in the territory. That is the reason the Utilization Department of 49 employees looks a little large in

relation to these other companies. Total operating expenses, however, are not materially affected by this difference, as this expense in Lynn is payroll and in other companies plumbers' bills. Other than these comments, I think that what I have said on the Ebasco study applies equally well to the Lynn Gas Company.

Q. Mr. Dalbeck, I take it from what you have said that your judgments as to the cost and effects of severance are [912] consistent with the results of the Ebasco study.

A. Yes, that is so. I worked with Ebasco on the development of the report and as we talked through and analyzed the various problems we found our judgments coincided. I know our present organization, as it operates on the local level, what the duties are and have a pretty good idea of the additional work that could be absorbed.

Also, being fully conversant with what the Gas Division does for the local companies and what NEPSCO does for both the Division and the local companies, I know what would be required in a completely separated gas company and what added personnel would, in my opinion, be required. I have also been familiar with the operations of other straight gas companies outside the NEES System, and I know what other gas companies now have for organization and how they operate.

My past familiarity with Treasury and Accounting operations both in NEES and in other companies, also gives me a good idea of what the requirements will be for an operation on an independent basis.

Q. Then you consider the Ebasco projections on the gas companies reasonable? A. I do. In fact I think they are definitely on the conservative side.

Mr. Nowlin: Mr. Dalbeck, your last conclusions which you expressed were based upon a consideration of the [913] companies individually rather than collectively, were they not?

The Witness: That is correct, on a completely separated, independently operated company, on an individual company basis.

Mr. Nowlin: Mr. Examiner, I should like to inquire of Mr. Quarles at this time as to just why, or what is the purpose of taking up the individual companies and analyzing them before we get to the point of the consideration of whether they have one or more integrated systems.

Mr. Quarles: I undertook to cover that point in my opening statement, and I am sorry if I did not make it entirely clear.

As we analyze the situation with these eight companies, there is no basis on which we could assume that they would be kept together or that they would be one system, or two systems, or any other particular combination. We felt that the only firm basis for the initial analysis was to assume that each would be operated separately and would analyze it on that basis. We then, having done that, would take the next step of exploring what would be the difference if, instead of operating separately, a way could be found to combine them in a single system and operate them that way, and we do propose to put on evidence covering that alternative when we have completed analyzing it this way, [914] so that the staff and the Commission will have an opportunity to see it both ways and to compare the results on both theories.

Mr. Nowlin: Will the next witnesses that come on take up the companies individually, as Mr. Dalbeck has in his testimony?

Mr. Quarles: The next witness will, and then, as I mentioned earlier, there will be treasury witnesses that will cover the total situation as it is now. Then we will have the field people of Ebasco, who did the field work, testify with respect to their analyses on the factual basis, particu-

larly, and then, as I said, we will undertake to explore the combined situation.

Mr. Nowlin: I don't want to be in a position of trying to tell Mr. Quarles how to run this case. The reason I made this injury is that the Commission's original notice and order for hearing specified the issues, (a) or one, whether the electric utility assets of the New England Electric System Holding Company System constitute a single integrated electric utility system or more than one such system. Now, we have had hearings and that determination has been made, that they have a single integrated electric system. Mr. Quarles has stated that would be their retainable system if they had to elect between which one they would keep. Issue number two was whether the gas utilities companies [915] of the New England Electric Holding Company System constitute an integrated system, or more than one such system.

In the answer that respondents filed, the statement was made that they had a single integrated gas utility. The thought I had was that so far as I can see the evidence has not been addressed, first, to whether you have a single integrated gas utility system or more than one such system. If you have one single, integrated gas utility system, then it seems that the evidence should relate to that single system and apply it to the electric system, rather than on an individual company basis.

Mr. Quarles: Our position, I think, is quite simple. We have introduced evidence designed to show that at the present time, under common ownership and management, these gas properties are being operated as a unit, and in our opinion do constitute a single system. That, however, depends on the common ownership and the joint operation. If there should be, and I hope there will not be, an order requiring disposition of the gas properties, we do not know how they could be disposed of and what is now a single

system may not be capable of being operated in the future as a single system but may, in the process of separation, be broken up into two, three, or eight separate systems. So, we feel it is essential that we analyze it both ways.

In other words, we feel that we have presented and [916] are presenting, and will continue with the next few witnesses to present, sufficient factual information to warrant a finding by the Commission, if it is material, that as presently constituted and operated, the gas companies constitute a single integrated system.

Mr. Nowlin: That is the part is missed, Mr. Quarles, but I haven't seen anything directed to that point. Everything so far has been directed toward treatment of the individual companies.

Mr. Quarles: We have undertaken to show the way they are presently being operated right down the line, with our description of activities, functions, financing and operations. We have shown that they are close enough together to be capable of operation as a single unit. We have shown that in Mr. Dalbeck they have a single operating head, who is president of all of the eight companies at the same time, that he is in charge of the gas division of the System. It seems to me that we have gone quite a long way and will go further before the hearing is over in demonstrating that presently they constitute a single system.

Mr. Nowlin: What prompted my question was the question I just asked Mr. Dalbeck at the end of his testimony, that he was speaking of the companies individually rather than as an integrated system. In other words, assume that there was no difference between the staff and the company, [917] that you had one single integrated gas system, or one, and one additional system.

Mr. Quarles: Yes.

Mr. Nowlin: Then the testimony we are taking on the individual companies seems to me to be irrelevant.

Mr. Quarles: I disagree with you completely on that. Even if we assume that at the present time all can agree that they are a single, integrated system, it does not appear that they could be operated as a separate, single, integrated system once they were disposed of by New England Electric System.

Mr. Nowlin: You are mixing two cases and statutes. The Commission's cases and the courts talk about the loss of substantial economies or operating economies, not the sales economies.

Mr. Quarles: Do they refer to operating economies?

Mr. Nowlin: The court cases and the Commission's opinions do, what would be the operating losses, not the sales losses.

Mr. Quarles: We propose to show what all of the losses resulting from the attempted segregation are. As to which of those are to be taken into account and what weight is to be given to them, I suppose that is primarily for the Commission and ultimately for a court to determine, but we feel that the evidence that we are putting in here on [918] these various points is all relevant to the issue, first of all, of the present situation, the integration of the gas with the electric, in operation, the integration of the eight gas companies as a single integrated gas system, and ultimately to the problem of what losses would result from breaking up that system.

Mr. Nowlin: I don't want to anticipate your case. For example, you have the presidents here of eight operating companies. If they were combined as a single integrated operation, would you still have eight operating presidents?

Mr. Quarles: You will still have eight presidents.

Mr. Nowlin: You would have a president of each company?

Mr. Quarles: They might be the same person. Each company would have to have a president. But, as I said,

this whole section of our case is dealing with one of the two definite possibilities of what would happen on segregation, namely, breaking them up into eight separate operating entities. Then we come along and take the other extreme and assume operation of all of them as a single operation.

Mr. Nowlin: I guess that is what I would have liked to have heard first. I just wanted to make these notes. This is one thing that is causing confusion in my mind on some of these exhibits. In other words, you are kind of getting the cart before the horse. The first problem is to determine [919] whether they constitute a single integrated gas system collectively, and if they do not, whether they constitute one or two, and then relate those single integrated systems to your electric system, if there would be substantial operating losses. And I say those operating losses don't extend to the point where you may dispose of them.

Mr. Quarles: In order to visualize the losses, you have to visualize the severance.

Mr. Nowlin: You have got to first get something to decide what you are going to sever. Are you going to sever a single system or eight systems? I just make this point on the record. Maybe it will iron itself out, but I could follow this much easier if I could have known what your position was, that what you are attempting to establish is that you have one single, integrated system.

Now, after you have established whether you have a gas or an electric system, then you decide which is the principal system. You have stated that it is your electric system. The next thing is whether, in addition to New England Electric Company Holding Company System as a single integrated public utilities system, any of its additional gas or electric utility company systems may be retained under common control.

It seems to me the first thing is to determine the identity

of the gas companies. What are they? Next, [920] relate that to the electric system, see whether there would be substantial losses.

Mr. Quarles: Perhaps I have been in error. I had not thought that the order in which issues were set out in the order of notice had a bearing on the order in which the evidence would be presented or the issues taken up, particularly where the same evidence will bear so largely on all of the issues that are raised. Our thought was to present the necessary evidence for a decision of all of the issues in a way that would be, from our point of view at least, the most orderly and easiest to follow.

I am awfully sorry that our approach to it was different from the one that you would have used. I think it isn't a matter of tremendous importance whether you first consider them as individual and then as a group, or first consider them as a group and then as individual companies.

We wish, in any event, to have in the record all of the necessary facts for them to be considered by the Commission both ways and to enable us to present arguments before the Commission as to how they should be treated in the event of segregation.

Mr. Nowlin. Well, we certainly are in unanimous agreement on the relevance of a proper record. The statute itself fixes the pattern, because it says "required to limit to a single integrated system." "The Commission shall permit [921] a registered holding company to continue to control one or more additional integrated public utility systems if such additional or segregated systems . . ." I don't know whether you claim you have eight or one integrated systems. If there is one, then the question is whether such additional integrated system can be operated as an independent system, not independent of each but as an independent system. But you go ahead. I wanted to explain to you why I have had some difficulty with some

of the exhibits and the Ebasco report, because it is kind of like putting the cart before the horse. If I knew what your integrated system was that was going to be forthcoming, then there would be no need of giving the individual information on the companies. If there are going to be eight companies, then there is no need to take them individually.

I am certainly not trying to foreclose you putting in anything that is relevant. I do have trouble taking up these individual companies without having first decided whether you have one or two integrated gas systems.

Mr. Quarles: Our position is that presently, in our opinion, we have one integrated gas system. That is not, however, essential to our case here, if the Commission should determine that we have two or more. We have endeavored to produce evidence establishing the fact that there are economies and justifications for continuing to retain one [922] or more. Again, I am sorry that I didn't make it as clear as I thought I had in my opening statement that our position was as I have just now stated, that presently there is the one or two systems, but that that is not necessarily the same as they would be in the event of severance, because, in the process of severance from NEES, there would also be severance from each other.

Mr. Nowlin: Well, Mr. Quarles, then if you say there is one single integrated gas utility system, suppose the staff were to unanimously agree with you, would you proceed then to put the testimony in on the individual companies?

Mr. Quarles: That is kind of an "iffy" question.

Mr. Nowlin: It might be nearer than you think.

Mr. Quarles: I would certainly be prepared to consider it. We are pretty well along with the presentation now.

Mr. Nowlin: How many more witnesses are you going to put on on the individual companies?

Mr. Quarles: The witnesses from here on aren't divided

between evidence relating to the present situation and the present integration and relating it to this particular thing. Most of the testimony from here on relates to the preparation of the report, the findings on the material, and I wouldn't be able now to estimate how [923] much of that is devoted to the question of eight versus one. I would say that the time that we would save in doing that would be rather small as compared with the time that would be lost in reconstructing it and undertaking to set it up on a different basis.

Mr. Nowlin: May I inquire, do you plan to call Mr. Dalbeck, for example, to testify on the combined relationship of all the companies?

Mr. Quarles: Yes, sir.

Mr. Nowlin: Suppose we go ahead and proceed, Mr. Examiner, but I think you can see a little bit of the confusion that has been running through my mind, whether some of these things are relevant or not.

Mr. Quarles: If, in the effort to present all of the evidence that could possibly be relevant to this we have overstepped in some respects and have presented too much material, I am sorry.

Mr. Nowlin: I am not asking for apologies, Mr. Quarles.

Mr. Quarles: My point was not to make an apology. I am glad to make it, but that wasn't my point. My point was that the introduction and the receipt of irrelevant material is not an error under the rules, as I understand them. It is taking up some of your time and some of my time, and some of the time of other people, but aside from that loss [924] of time, no harm has been done, because an expert agency such as the SEC can certainly sort out what is material to it as they apply their theories of what should be done here.

Mr. Nowlin: I think you are right, if you don't go too far afield.

Mr. Quarles: We will try not to go too far afield. If you think we are, just pull the cord and we will try to come back in. Your reference of putting the cart before the horse, you know quite a few of the new automobiles have the engine in the back.

Mr. Nowlin: Only one that I know of made in this country, the Chevrolet.

Mr. Examiner, we have, among ourselves, several notes that we thought were clarifying, but I think we had better wait for Mr. Dalbeck to come back on the stand.

Hearing Examiner Ewell: You will defer questioning him until later?

Mr. Nowlin: Yes. We had several points. Every time I write a question down here I wait a little while and get an answer to it.

Mr. Quarles: Maybe that has a bearing on the prolific case that we have been putting in and the possible justification.

Mr. Nowlin: I don't know whether it is that or my attentiveness to the witness.

[925] Hearing Examiner Ewell: Well, are you going to excuse this witness now?

Mr. Quarles: I will ask to have Mr. Dalbeck excused subject to recall later.

(Witness excused.)

Mr. Quarles: Mr. Examiner, I would like now to call Mr. Leigh FitzGerald, who has not previously testified in this proceeding.

Hearing Examiner Ewell: Very well.

Whereupon,

LEIGH FITZGERALD

was called as a witness for and on behalf of the respondents, and having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Quarles:

Q. Please state your name and business address. A. Leigh FitzGerald, 441 Stuart Street, Boston, Massachusetts.

Q. What offices do you hold? A. I am Assistant to the President and Secretary of New England Electric System, am a Vice President of New England Power Service Company, Lynn Electric Company, and Granite State Electric Company, and a director of the latter.

Q. Will you describe your business background? [926]
A. Following graduation from Princeton University in 1935 with an AB degree in economics and history, I worked two years for the John Hancock Mutual Life Insurance Company in Boston.

In 1937, I started work with what is now New England Electric System as a student engineer in Providence, Rhode Island, for the Narragansett Electric Company. During the next two and a half years, I worked for varying lengths of time in merchandise sales, meter, plant accounting, right of way, general accounting, and overhead lines offices.

The next two and a half years I spent as an assistant in the office of Narragansett's Vice President and General Manager, Mr. Webster, doing a wide variety of things. These included preparation of operating estimates and analyses of actual results for Narragansett, The Mystic Power Company, and the Rhode Island Power Transmission Company.

In 1942, I was transferred to Boston as Executive Assistant in the office of Mr. Webster who at that time was System Vice President, in charge of retail gas and electric company operations. Ever since then my duties have kept me in pretty constant touch with System-wide operations in general, but especially with the retail electric side. I have occasion to visit the System properties from time to time and talk frequently with local managers and operating

[927] people in the field, or in the Boston office, or over the telephone. I also make it a point to visit and compare notes with non-affiliated companies in New England and elsewhere.

From time to time I have the statistical record of other companies checked to pick out situations reasonably comparable to our own that are showing good results. Following up on these helps us keep abreast of new ideas and the best thinking in various aspects of the electric business. Of course, we also have an excellent opportunity to compare results between the different operating units within our own System in a similar way.

In the past, I have been a member of the Statistical Committee of the Edison Electric Institute and the Research and Statistical Committee of the Electric Council of New England. Both of these have been interested, among other things, in regional and intercompany cost and performance comparisons.

Q. Will you please describe your present duties? A. I assist the President, Mr. William Webster, in a variety of matters as assigned from time to time. These include periodic review of current activities and operating results of System companies and looking ahead to future problems and opportunities. I work closely with the personnel director on management development, organization and salary; [928] administration policies and procedures. I also review proposed construction projects and the resulting Capital Expenditure Budget. I keep score on various System-wide activities such as corporate contributions, memberships and dues paid to outside organizations and the personnel representing the System on trade organization committees.

At present I still spend about half my time assisting the System Vice President for Management, Mr. Krauss, who has recently taken on this assignment. My last pre-

vious assignment was as assistant to his predecessor, Mr. Noek.

Q. I show you a bound volume containing individual maps of the service areas of Lynn Electric Company, Merrimack-Essex Electric Company, Northampton Electric Lighting Company, Suburban Electric Company, and Worcester County Electric Company.

Q. Would you please describe it? A. The maps depict the service areas of the five electric companies which operate jointly in at least part of their territory with affiliated gas companies. In the cases of Suburban Electric Company, Lynn Electric Company, and Northampton Electric Company, each has a single joint operating center serving substantially the whole electric and gas territory. In no one of these three companies are the electric and gas service areas co-extensive. In the case of Suburban, 84 percent of its total electric customers [929] are supplied with gas by Mystic Valley Gas; in the case of Lynn Electric, 77 percent are also served by Lynn Gas; and in the case of Northampton Electric, 61 percent are also customers of Northampton Gas.

Only just over half the customers of Merrimack-Essex Electric Company are serviced from local offices where joint operations are carried on—Lawrence, Beverly and Gloucester. The balance are taken care of through straight electric offices at Lowell, Haverhill, and Amesbury. As a result, only 35 percent of Merrimack's electric customers are also supplied with gas by affiliated companies—North Shore and Lawrence. Worcester County Electric Company has 20 operating units ranging from single isolated service crews through four district centers to the Worcester headquarters. More than two-thirds of its customers are covered by straight electric operating units. Only 9 percent of all its electric customers receive gas from affiliates—Wachusett and Central Massachusetts.

Comparison of these maps with that in Respondent's Exhibit No. 52 will show the overlap of electric and gas franchise areas for these five companies on a geographic basis.

Q. Was this prepared by you or under your supervision?

A. It was.

Q. Does it correctly set forth the information it [930] purports to show? A. It does.

Mr. Quarles: I will offer it as respondent's Exhibit No. 72.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondent's Exhibit No. 72 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Since the electric companies were described in considerable detail during the 1957 hearings, I will ask you only to indicate whether there have been any significant changes in them? A. Since that time there have been no substantial changes in the territories served. There has been substantial growth in volume of business and plant investment, but no changes that appear material in this proceeding other than the separation of Lynn Gas and Electric Company which has already been mentioned. There have been the normal retirements, promotions, and new hirings in the organization, and some realignments of duties and responsibilities, but again, nothing that appears to be important in this proceeding

Q. Are the effects of gas severance limited to the five electric companies you just mentioned? [931] A. No. These five companies are only the ones where there are extensive joint gas and electric operations. In addition, Quincy Electric Company, Northern Berkshire Electric Company, and Southern Berkshire Electric Company par-

ticipate to a minor extent in joint treasury activities with affiliated gas companies.

There are also certain costs presently shared among the electric and gas companies for functions performed by New England Power Service Company. To the extent that these cannot be reduced as much as the current billing to the gas companies, expenses shared among the 14 electric companies would be increased. I understand that these items will be described more fully by later witnesses.

Q. You have heard Mr. Dalbeck explain the losses of economy to the gas companies from severance. Would the effect on the electric business be significant?

Mr. Nowlin: Mr. Examiner, I am going to object to that as being irrelevant to the issue of the effects of the loss of economies to the gas system. The Commission has held that the loss of economies, as reflected in Clause (a) of Section 11(b) relates to loss of economies to the gas system rather than to the electric system.

Mr. Quarles: Mr. Examiner, we will press for the answering of that question, because we feel that the natural meaning of the statute would include losses sustained by the [932] entire situation, that there is no logic in differentiating between the loss sustained by the retained and by the segregated portions.

Hearing Examiner Ewell: I assume you mean in the public interest?

Mr. Quarles: In the public interest. Certainly Congress was interested in investors and consumers. There has been at least one case, which we will brief later, if desired, in which it has been held by a Circuit Court of Appeals that losses to the retained should be taken into account. If you take the position that you look only at the losses to the system that is separated and not to losses to the retained, you have the anomalous result of whether there are sub-

stantial losses depending on which happens to be your principal system.

Hearing Examiner Ewell: Has the Commission passed on the point in any of its decisions?

Mr. Nowlin: Off the record.

(Discussion held off the record.)

Mr. Nowlin: Why don't you defer ruling on this until tomorrow morning and I will try to find the cases?

Hearing Examiner Ewell: I would be inclined to overrule it at this point for this one question. If there is going to be a series of questions—

Mr. Quarles: There is, and there are going to be [933] exhibits.

Hearing Examiner Ewell: I would want to look into the matter further. You say there will be a series of questions on this point?

Mr. Quarles: There will be other questions on the matters that bear on losses to the electric company. There has been only one Court decision, and that was in the Fifth Circuit in 1956, which held that the losses to the retained electric system should be taken into account.

Mr. Nowlin: What case was that?

Mr. Quarles: I am under the impression that the Commission's position has been, in each case, that varying amounts of weight might be given to it, or that little weight might be given to it, but I am not familiar with any Commission decision ruling that evidence as to losses to the retained system was not admissible. That doesn't prove that there aren't any.

Mr. Nowlin: What was the case you are talking about?

Mr. Quarles: Louisiana Public Service, Fifth Circuit, 1956. I am not familiar with any Commission decision which excluded the evidence.

Hearing Examiner Ewell: Would it be convenient for

you to pass this area for the time being, and go into something else and we will take it up in the morning?

Mr. Quarles: It goes into quite a little bit of [934] our evidence, and irrespective of the Commission's previous decision, we would press for admitting this evidence. It is relevant in this situation, whether or not it has been relevant in cases previously before the Commission, for three different reasons.

In the first place, we maintain that under the statute it is all losses of economies that ought to be given consideration. In the second place, it is relevant to the determination of the loss experienced by the gas company, because you have a total, overall situation, and the allocation between the two is important in determining how much loss is sustained by each. Therefore, and if we assume for the moment that it would not be open to us to rely on the loss of the electric, we should be permitted to show it as bearing on what the loss of the gas is. In the third place, it is relevant in this particular situation, because here a very substantial percentage of the customers of the gas companies, to which we are referring, are also customers of the affiliated electric companies, and any loss to either will fall on the same, and that has a bearing, we maintain, on the substantiality of the loss. What is substantial loss of economy in one case may be very different from what it is in another.

Our position is that, in view of our situation and of this tremendous overlap and the loss falling from either [935] side on the same people, a smaller loss should be regarded as substantial than in a case where they were entirely separate. So that our position is and will be that this is relevant and admissible evidence. We would ask for a ruling on it and hope to go ahead with the presentation of our case.

Hearing Examiner Ewell: Well, it seems quite persua-

sive to me, in absence of a definitive holding by the Commission of a contrary nature.

Mr. Nowlin: I suggest you pass it. There are five of these cases. I have before me American Light and Traction Company, the North American case, and the Philadelphia Company case.

Hearing Examiner Ewell: I think it would be better to pass it, if you can, and go ahead for something else.

I will reserve ruling on it for the time being and you can go on with something else.

Mr. Nowlin: If you do that, I would like to have a standing objection to any question to be asked about the impact on the electric company.

Mr. Quarles: May we go ahead with this witness along this line, and if you wish to move to strike later on, you may do so.

Mr. Nowlin: I understand the Examiner has [936] reserved a ruling?

Hearing Examiner Ewell: That is what I wanted to do, unless you want to take it subject to a motion to strike at a later time in the event you prevail in your argument.

Mr. Howlin: I am objecting to it, and you reach your decision.

Hearing Examiner Ewell: I will take it subject to a motion to strike.

Mr. Nowlin: Mr. Examiner, I found one of the cases I had here. It is Philadelphia Company 28 SEC, and the quote is from Page 52: "We think it clear that the losses in economies which may be considered under clause (a) are limited to those directly related to the additional system sought to be retained." Footnote 30 cites the North American Company, 11 SEC 194, 200 (1942), North American Company vs. SEC 133 FED 2d 148 (CCA 2d 1943), 327 US 686 1946. See also the legislative history discussed *supra* page 13. That was the authority for my objection.

I will say this, that the opinion goes on and apparently says—suppose I read it: “The foregoing computation is made, however, merely to point out that our overall conclusion with respect to clause (a) would not be affected even if we were to consider the claimed increased expenses for both the gas and electric systems, since the comparative relationship of the total claim to total [1937] revenues, expenses and income decreases the significance of the claim . . .” In other words, the Commission made the flat holding but still went on and said we computed it and it didn’t amount to anything because it has an insignificant effect anyway.

Mr. Quarles: Was the evidence excluded in that case, or doesn’t that rather indicate that it was actually received and considered?

Mr. Nowlin: Well, the point is that it may have been received before the Commission ruled, but the Commission has ruled here. As I said, we think it clear that the losses in economy which may be considered under clause (a) are those directly related to the additional system sought to be retained. Since the evidence apparently got in, the Commission went on to say “even if we had considered it”, but the holding is that it directly related to the systems sought to be retained.

Mr. Quarles: I would submit that is not the holding, that that is obiter dictum in that case.

Mr. Nowlin: The case cited in the Supreme Court as authority for that holding.

Mr. Quarles: I would want opportunity, if I may, to brief it and to refer to the Court decisions in the matter, before you ultimately rule.

Hearing Examiner Ewell: Is that the Louisiana [1938] case that you mentioned? Was that an integration proceeding?

Mr. Quarles: Yes.

Hearing Examiner Ewe Can you get the citation on that?

Mr. Quarles: That is Louisiana Public Service Commission vs. SEC 235 Fed. 167, 5th Circuit 1956. That was, I believe, reversed on other grounds when it got to the Supreme Court, but further: "While we recognize the merit of respondent's contention that the interpretation placed on the law by the agency enforcing it is persuasive, no one will contend that it is not the duty of the Court to construe the Act of Congress, even if such construction differs with long-accepted administrative policy." But I would suggest, in the interest of saving time, that we each submit a memorandum in support of his contention, and the Hearing Officer will rule on it in due course.

Mr. Nowlin: I don't see any need to submit a memorandum. We have cited the case and the Supreme Court decision, from my viewpoint.

Mr. Quarles: I would like to have an opportunity to read the case.

Hearing Examiner Ewe What do you think would be the effect on this case? What effect do you think that will have on this other case?

[939] Mr. Quarles: The Supreme Court decision he is referring to is not relevant to this case. That has to do with the constitutionality of the Act.

Mr. Nowlin: The case cited by the Commission in support of its conclusion.

Mr. Quarles: I think both of us would do well to have an opportunity to examine the authorities a little more closely on it, and since we have already put in some of this evidence, subject to your reservation of the right to move to strike, if the Hearing Officer ultimately decides that it is inadmissible, it might proceed. Otherwise, if your Honor would prefer to rule now—

Hearing Examiner Ewell: Well, I am a little confused as to why the Circuit Court would have held in a way contrary to a holding of the Supreme Court.

Mr. Quarles: The Supreme Court case, sir, did not cover the point at all. The Supreme Court case was on a different issue, as I understand it.

Mr. Nowlin: I do not have the court citation, but this case did go into court in the Third Circuit, but I can supply that. This is the only Commission decision I am reporting from, but I know this case went into the Appellate Court. Whether this issue itself was raised, I don't know.

[1940] Hearing Examiner Ewell: Well, I think we ought to pass the matter until you have had an opportunity to read the case and cite any portion that can clarify this. We can still go on, I think, and take it subject to a motion to strike it. I will strike it out if I am convinced that that case is requiring it.

Mr. Quarles: Will you repeat the question?

(Whereupon, the question was read as follows by the reporter:

"You have heard Mr. Dalbeck explain the losses of economy to the gas companies from severance. Would the effect on the electric business be significant?")

The Witness: Yes, it would, although the amounts are somewhat less. Obviously in relation to revenues they will be much less in companies where joint customers are a small portion of the total. Mr. Dalbeck has described in detail the principal joint gas and electric operations, both the functions and the numerous locations. What happens on the electric side in general would be just the other side of the same coin. Holding down investment, manpower and expenses to a minimum consistent with adequacy of service is very important for an electric utility. Joint operation of appropriate functions of the electric and gas business is

one of the means employed by NEES to hold down costs. [941] Climate, terrain, land values, fuel prices and many other factors combine to make the electric business expensive in New England. As a result, our rates run in the order of 15 percent to 20 percent above the average for the nation as a whole. Our service area already averages over 500 people per square mile, so we cannot look forward to the same rate of customer growth to offset inflationary costs as in many other sections of the country. Our growth must come more through adding large-volume uses in an established territory. These big uses center around the use of electricity for heating, water heating and house heating in particular. Such uses, of course, are directly competitive with costs for gas, oil, or coal heat. Any further unnecessary rate increase because of loss of economy of joint operation would be an additional handicap to growth and ability to combat rising costs.

Q. Would gas severance require any major organizational changes on the electric side? A. Certainly not on an overall basis. However, in the case of Worcester County Electric Company, and to a lesser extent Merrimack-Essex Electric Company, we have some individual local joint operating units which are pretty small. In the event of severance of the gas portion of these, the remaining electric organization would become very thin and marginal, economically speaking. The electric company would not abandon [942] its local offices in these areas as this would impair local standards of service and certainly hurt public relations. In our territory, the cities and towns have long histories and strong local pride of independence. The county is of minor political importance. The township is dominant, or the city. The population has long since become accustomed to first-class electric service maintained promptly from a nearby base. Both the general public and their representative authorities resist removal of service centers

to larger, but more distant locations. Local pride, service and property tax benefits are all involved. Joint operation of gas and electric service has produced volume to support retention of local service in many instances where it would otherwise be questionable.

Q. Would you, from your acquaintance with retail operations, please describe the principal functional areas where savings are achieved through joint operation? A. Savings to the electric business from joint operation may be grouped under (1) space occupancy, (2) direct local supervision, (3) operating personnel, (4) specialized equipment, (5) large volume transactions, (6) sharing of professional and specialized services, and (7) mutual backup and emergency resources.

Q. What sort of thing would you include under space occupancy? [943] A. Obvious opportunities for savings exist through joint occupancy of floor space in office buildings, service buildings, and garages. Items of cost which can be shared on a mutually advantageous basis under these circumstances include heat, light, janitorial service and building maintenance, watchmen and other building security measures, telephone switchboard service, first aid rooms, rest and lunchrooms, auditoriums, vaults for safeguarding of records, parking lots and storage lots, and perimeter fencing. Rentals and building services contribute a large part of the increased expense to electric operations from separate as compared with joint operation.

Q. What do you mean by the classification direct local supervision? A. There are functions where identical or very similar activities have to be carried on locally for both gas and electric operations and which can readily be supervised by a single individual. This is a great help in the small to medium sized operating areas. Good direct supervision can be provided for both gas and electric operations at a cost shared roughly one-half by each. It is

particularly appropriate in such activities as (1) garage, (2) stockroom, (3) meter records department, (4) customer service order, (5) cashiering, credit and collection, and (6) customer billing. I am referring to situations where the supervision [944] involves primarily work assignment, supervision of performance, and training of routine workers.

A good example is the supervisor of meter records at Lawrence. This record keeping is fundamentally identical for both gas and electric, differing only in the details recorded. It is an important record. Accuracy is necessary, both from the need of fairness to the customer and to the company, and because of the specific regulatory requirements on the frequency and the results of meter tests. On the other hand, it is a small operation requiring only three clerks. The turnover rate for clerical help is high, both from girls leaving the employ of the company and from their bidding on a seniority basis for higher rated jobs. A permanent direct supervisor to maintain standards, train newcomers, and in turn provide continuity and control is highly desirable. The benefit of this supervision, however, can be obtained for the gas and electric jointly at about the same cost as for one of them alone.

Q. You also mentioned operating personnel. Would you please enlarge? A. This is the largest general area of loss of economy from abandonment of joint operation. There are many jobs where gas and electric work can be performed simultaneously with little more time or effort than either the electric or the gas job by itself alone. You have [945] heard examples from Mr. Dalbeck. The electric meter of a customer who is terminating his service is read out by the same man who shuts off the gas service. Routine meter reading is one of the biggest opportunities for economy through joint operation. Cashiers, bill deliverers, messengers and mail boys, watchmen and in some cases

telephone operators, secretaries and janitors are further examples.

There is a slightly different situation where the electric and gas work are essentially identical, and people can be used interchangeably between the two operations to take advantage of the diversity between the work peaks in each. Most clerical jobs fall in this class, also key punch operators and collectors, and others.

Still other jobs require 24-hour coverage, but in the off hours afford spare time which can be used to advantage for other operations. For example, electric substation operators sometimes can be set up to take trouble calls for both electric and gas; so also with garage attendants, trouble operators, and others.

Q. Specialized equipment was an item you included. What about this? A. There is a rather wide variety of specialized equipment which is necessary but normally is not used to anything like full capacity by either electric or gas alone. In cases where this is useful to both departments, there is [946] an obvious economic benefit from sharing a single piece of equipment between the two. This sharing is frequently done on a pretty informal basis. In the construction line, there are such items as air compressors and drills, and pole trailers which may also be used for carrying gas pipe. In the stores area are such things as motor trucks for transporting and delivering materials, fork lift trucks and cranes. In the garages there are various pieces of repair equipment which are used to full capacity only in the larger operations.

In the accounting area there are all sorts of machines and equipment such as calculators, billing machines, postage meters, addressograph machines, kardex customer records and the vaults in which they are contained, reproduction equipment, and many other things. Other examples

are first aid equipment, safes and vaults, gas detectors and masks, and shortwave radio.

Q. What is the significance of large volume transactions?

A. Purchases of materials and services for various areas and departments can often be combined to produce a larger single transaction and consequent savings. For example, system-wide blanket insurance coverage can be purchased for casualty, public liability, Workmen's Compensation, group health, accident and life, group annuity, Blue Cross and Blue Shield. In some cases the savings are reflected directly in the initial premium schedule; in other cases [1947] they become available through an experience dividend. Quantity discounts are substantial, either formally expressed or in situations where the volume of business available simply encourages the vendor to use a sharper pencil. This is particularly so in the area of fleet discounts, stationery purchases, office furniture, and gas and electric appliances. An attempt is currently being made to pool all System purchases of gasoline with attendant savings. Combined volume of newspaper advertising in Lawrence gave \$2,100, or ten percent saving over separate billing for the year 1959. Almost endless examples of this sort could be cited.

There are also many System activities where the expense of distributing materials and services to larger groups adds relatively little more cost. Publishing 8,000 copies of an employee magazine obviously would run very little more than 6,500. The cost per employee of health examinations such as were given in 1959 by a traveling medical unit would have been materially higher but for the concentration of employees in the areas where both gas and electric employees were examined at the same time. Supervisory, safety, and general employee information meetings can usually include both gas and electric employees in an

operating area at no more cost than for either gas or electric alone.

Q. What do you mean by sharing of professional and specialized services? [948] A. There are advantages to both the gas and electric operations from sharing the services and cost of high calibre professional and specialized personnel who are both expert in their own field and at the same time familiar with System facilities, problems, procedures and personnel. Many of these are in regional headquarters, such as the district treasury organizations; others are in the various departments of the Service Company. Their fields include such things as financing, insurance, tax accounting, legal services, rate services, safety, personnel, labor relations, and medical services.

Q. Since other witnesses will go into these areas, I will not ask you to comment on them further. Returning to the local scene, what significance do you attach to the presence of an affiliated gas organization as backup and emergency resources. A. A sister affiliated utility can be freely called upon in times of emergency for help and can be counted on to respond. Its personnel are right on the spot and time is not lost while they are being assembled and transported in; they know the streets, the local people and any local problems; usually they belong to the same labor union. Materials and equipment can be borrowed back and forth. Cars or trucks with radios can quickly augment the fleets of either company and multiply the effectiveness of their manpower.

[949] Following sleet storms such as those of March 14 and March 20, 1958, extra vehicles which can communicate with headquarters are invaluable for reporting the location and kind of trouble, transporting extra manpower and materials to the places where needed, and generally speeding service restoration.

The electric organization, of course, can reciprocate too.

For example, a few years ago an overhead supply gas main in Clinton was accidentally broken by a snow plow. When such a thing happens, lots of manpower is needed immediately to shut off each individual customer affected and prevent formation of an explosive mixture of gas and air in the pipes before the supply can be restored to the mains.

We are not talking here about widespread disasters such as a hurricane when, of course, we would have to call in large amounts of outside help from a distance. In such circumstances you operate on a wholly different scale. You have to set up a guide organization for out-of-town crews, housing facilities, check with unions involved, and do all the other things necessary to such an operation. Fortunately, a crisis of this degree rarely happens. In the intermediate size of crisis which hits only a limited portion of the System at a time, the local reinforcements about which we have been talking are of very special value.

Q. Does this give the full score on advantages of [950] joint operation? A. No. It does not take into account the very important advantages of membership in a larger organization. They show up in many different forms. For example, you can get along with a thinner organization at many different points than would be prudent if you were entirely on your own. This happens at each operating location where gas and electric reinforce one another.

For example, an experienced manager in one operation can steady a neophyte in the other while he learns the new ropes. As a matter of fact, many of our people have had both gas and electric experience during their careers and can pinch-hit or give advice with authority in either field.

Quite aside from such purely local reinforcement, greater opportunities exist for individual advancement in a larger organization. People are better developed by maximum challenge and more apt to get into jobs well adapted to their abilities. In this way a stronger organization is pro-

duced throughout. As I just said, there are quite a few of our people who have gone back and forth from gas to electric jobs or vice versa once or more in their careers. This broader opportunity helps also in recruiting college technical graduates in competition with top paying industries all over the country. From the 68 men [951] hired as students the last ten years will come the bulk of our top engineers and management people fifteen to twenty years from now.

It is through ability to attract people of this caliber that we can continue to provide for customers with the good service at the low cost. Incidentally, five of these recruits are currently gaining experience in gas company jobs. This program was especially valuable to the gas group in its leaner days prior to the coming of natural gas. Basically, however, the broadening to the individual from experience in a different field is just as valuable to the electric organization. Other advantages of the sort I have referred to show up repeatedly through our operations.

Q. Are electric sales and promotional activities operated jointly with gas? A. No. Electric sales promotion is headed up in Boston by the New England Power Service Company Vice President, Electric Sales Promotion. Sales managers in the electric operating properties report functionally to the Boston Sales Department, and administratively to their respective local electric managements.

Q. How does this differ from the gas division setup? A. In the Gas Division, as you may recall from Mr. Dalbeck's testimony, the sales promotion function is headed by a Sales Promotion Manager, in Malden, who reports [952] directly and exclusively to the Gas Division President. At the local operating level each gas sales manager reports to a local gas manager who is a separate individual from the local electric manager.

In many combination gas and electric companies through-

out the country, sales promotion is a combined activity. New England Electric System electric sales promotion is completely separated from gas, and the two are highly competitive.

Q. Please describe the electric group a little more fully.

A. Electric sales promotion is carried on by an organization of 265 employees, 189 of them in Massachusetts and all but 16 based on operating locations in the field. In general, sales promotion strategy, coordination and control is centralized, while detailed tactics and supervision is left to the field forces. There are two major subdivisions of electric sales promotion headed respectively by the power sales manager and the merchandising manager in Boston.

In addition, three smaller groups specialize on advertising, area development, and agricultural development—the first two located in Boston, the latter with headquarters at Clinton, north of Worcester, Massachusetts.

Q. What does the power sales group do? [953] A. Power Sales Departments maintain continuing contact with all large industrial and commercial electric customers. They report back expansion plans so that the distribution and production facilities required can be planned and built ahead of need. They promote new and increased use by all sizes of commercial and industrial customers for lighting, cooking, space and process heating, power and other applications.

In these activities they encounter lively competition from gas company salesmen, especially in the fields of commercial cooking and water heating, unit space heaters and industrial process heating applications.

Q. And the residential group? A. Residential sales promotion activities fall largely into two groups—merchandising and promotion. In the larger field operations these are separately supervised. The merchandising group is engaged principally in sale of household appliances direct to

electric customers at their homes or in company stores where smaller traffic appliances and light bulbs are also sold. Appliance salesmen are compensated on a salary plus commission basis. Here again, of course, intense direct competition from gas salesmen is encountered, especially for range, water heater, clothes drier and refrigerator sales. The promotional group concentrates on educational and developmental work—on [954] adequate wiring with architects and builders, on retailer and contractor relations, on rewiring and larger service capacity for older houses, on “all-electric” housing developments, and electric house heating.

Cooking demonstrations, appliance and general promotional advertising and window displays support both these groups. Appliance servicing may be under the immediate supervision of merchandise or the distribution department, but in any case works in close liaison with the merchandising group.

Q. Would you say sales and promotion are pursued aggressively? A. Yes. There is constant effort to improve performance of the various sales groups. Contests are set up between comparable electric groups based on achieving or exceeding established quotas. These are usually organized in campaigns of limited duration, such as eight or 13 weeks. Rivalry among merchandise managers is stimulated by a monthly ranking for their departments based on three factors—quota achievement for dollar volume, for kilowatt hours use added, and for inventory control.

NEES electric sales promotion avails itself of training courses and promotional materials of the Edison Electric Institute, other trade associations, and of equipment manufacturers. Members of the power sales staff [955] regularly attend courses designed to prepare them to compete aggressively with their gas company rivals in fields such as cooking, space heating, and industrial processing.

Since 1952, twenty-five of the power sales staff have attended the Culinary Institute's electrical cooking school, and thirteen the Industrial Electrification Council's heating school, to mention only two of those courses.

Additionally, NEES electric sales promotion participates in local electric leagues of appliance dealers and electrical contractors. It also benefits from participation with national programs, such as Better Light, Better Sight, Housepower, Live Better Electrically, and Bronze and Gold Medallion All Electric Homes. At present a wiring allowance of \$50.00 is made to builders of a Bronze Medallion Home. To qualify as such, the home must have an electric range, three other major electric appliances, 100 ampere service entrance, not less than twelve separate circuits and minimum lighting level.

For Gold Medallion Homes the allowance is \$175.00. The requirements are the same as for Bronze Medallion except that electricity must be the sole heat source, there must be an electric water heater and the service entrance must be 150 amperes. The builder also may use the prestige of the Medallion in his advertising.

In addition, from time to time we offer wiring [956] allowance to people who install electric ranges or water heaters in place of units using a competitive fuel. This is not done on a continuous basis because it is felt that the impact of a limited period offer is greater, particularly in view of the cost.

Local advertising and sales efforts are coordinated with national magazine, television and radio advertising campaigns, and gain manyfold in effectiveness thereby. This is especially important in recent years in the face of the aggressive gas promotion and competition in this area since the arrival of natural gas.

Q. How about this competition on a practical, day to day basis in NEES? A. Competition between gas and electric

sales groups is not restricted by NEES. It goes on side by side on 17 joint sales floors. At present common display floors are used, divided roughly half electric and half gas, with typically a central aisle leading to a cashier's counter where customers may pay their gas and electric bills at the same time.

Advantages in lesser cost, convenience to customers, and increased floor traffic are recognized by both groups. For the most part, this results merely in more aggressive selling by each, more total sales by each, more energy use, and better living for the customer.

[957] Q. Do you feel NEES System electric sales activities are effective? A. Effectiveness of NEES System electric sales promotion is attested by the 62 percent growth in use per customer between 1952 and 1959, and by the good showing of System companies in nation-wide contests sponsored by Edison Electric Institute, national manufacturers, regional distributors, and others.

Q. Did you take part in the severance study? A. Yes. I participated in early meetings when the approach was being planned and looked into problems relating to the study with local management and operating people as well as Boston office and Ebasco people.

In addition there have been a number of detailed round-table reviews of the losses of economy, including requirements for space, personnel and other costs and services in which I have taken part. In general, I have paid particular attention to the problem arising from severance of the gas business on Merrimack-Essex Electric Company, Lynn Electric Company, Suburban Electric Company, Worcester County Electric Company, and Northampton Electric Company. Of course, I am familiar with the general organizational structure and physical layout of the operations in question.

Q. Do you feel this report presents an accurate picture

of the electric operations affected by severance? [958]

A. Yes. It contains an accurate, though much abbreviated description and tally of personnel, space and other requirements for the electric operations involved in joint activities with gas at January 1, 1959.

Since that date, there have been the normal quota of retirements, promotions and replacements, but no substantial changes such as would impair the study as a measure of the loss of economy to the electric operations through severance of the gas.

Q. Have you considered whether all the additional expenses of the electric companies in the event of severance are included? A. I think we have a fairly complete story on the actual out-of-pocket cost increases that can be anticipated at this time. However, anticipating all the stresses and requirements for two separate organizations which have so long been integrated at so many points is not an easy task. Utilities have to be manned adequately for the daily work flow, but they also must be prepared in experience, training and depth of manpower for varied, unexpected emergencies. The more familiar one is with capabilities and limitations of particular individuals, the more questions and doubts arise as to the adequacy and self-sufficiency of two groups on respectively narrow bases compared with a single group on a broader base. Not all these things can be expressed in [959] monetary terms.

Q. What do you think of the validity of the pro forma costs and requirements? A. I think they are sound. At any given moment in a System the size of ours with the large number of operating units involved, there is a gradation of local situations with respect to the relationship between work loads on the one hand, and manpower, space and other items of capacity to do work on the other.

This situation is constantly changing—there is steady growth of volume of business, but also there are improve-

ments in methods, equipment and organization from time to time that increase ability to perform more work. At any one time some locations are tight on manpower or space, others have a little slack, while still more are just about in balance.

When you hypothecate a radical change such as we are proposing here, it would be unrealistic to end up with a tight situation everywhere, or an easy one either for that matter.

Nevertheless, I would say we have bent over backwards to the extent that our pro forma manpower in particular is pretty generally on the tight side. Usually in practice there turn out to be problems that were unforeseen.

Q. Did you do any testing or probing of the pro forma [1960] provisions? A. Yes, indeed. I explored and reviewed many of them.

Q. Could you give a specific example? A. Certainly. We have mentioned the practice of having the gas serviceman when he goes out to shut off a customer who is discontinuing service at the same time read out the electric meter.

After severance, of course, a special trip will have to be made by an electric man. I reviewed the reasonableness and consistency with which this was handled in different locations. One of the early proposals called for the addition of two electric metermen third-class in Malden for this added work, but none in Lawrence and the North Shore District.

The number of combination customers involved in each instance was 67,000, 33,000 and 24,000 respectively. After further discussion with local operating people, we decided that by revising their procedure, Malden could in the pro forma organization reduce their added requirements to one man instead of two.

In the other two companies, local electric operating people feel that there is less than an additional man re-

quired in any one place, and that they can absorb the added work without adding a man at any spot.

Q. Did you apply any other kinds of tests? [961] A. Yes. I tried to be sure we had looked into all reasonable alternatives. There were three additional trouble operators called for in the pro forma organization of Merrimack-Essex at Lawrence, Mass. This was to maintain 24-hour coverage which is now maintained jointly by two Merrimack and three Lawrence employees.

Mr. Casey, the local manager, and Mr. Allen, the local superintendent, agreed that 24-hour coverage was needed. We then reviewed the alternative means of accomplishing this. A plausible alternative seemed to be to route calls to substation operators at either of two substations during off hours, as is done in some other places.

This proved impractical, however, in view of an imminent project to make one of these two automatic. Supervisory control of the one would then be added to the duties of the substation operators at the other. In time of trouble they would not be able to handle all their substation duties, calls from the public, and dispatching of trouble crews at the same time.

In addition, a duplicate radio base station would have to be installed at the substation which is remote from the Methuen Street service building where troublemen and records are based.

Q. Were there other kinds of things which you looked into specifically? [962] A. Yes. I looked into situations where a job requires a man of high caliber and ability pretty much regardless of the volume of work. He can do the job perfectly adequately for both the gas and electric companies, but neither one alone can get along with a less capable person. The outstanding examples of this type are in the treasury field where there are extensive joint electric and gas operations.

I am thinking of such people as assistant treasurers, auditors, and chief accountants. I am sure the treasury witnesses will mention some of these when they comment later on the treasury and accounting organization.

An example in another department is the personnel director of Merrimack-Essex who can now provide guidance and supervision in this line for Lawrence Gas and North Shore Gas, as well, but would need to be the same calibre man for Merrimack-Essex alone, even though his coverage were slightly shrunken by severance of the gas.

Q. Was there any other area of this study to which you paid special attention? A. Yes. There is the whole matter of space requirements. When you are dealing with people you can only add or subtract a whole person, and the judgment problem becomes whether or not the changed work load is of sufficient magnitude to make such a change. Superficially, you might expect space requirements could go up and down precisely, [963] square foot by square foot, as the work load increased or decreased. As a practical matter, of course, this is absurd. In the first place, when a gas operation moves out, the work load does not necessarily decrease correspondingly. There may be nearly as many readers, billing clerks, and many others as before. If you count some of these as previously on the gas payroll, there will be actually more electric employees required and correspondingly more electric space.

In addition, something in the order of 20 percent of the space in a building is normally taken up by common use areas—corridors, stairways, washrooms, heating plant, and the like. In other words, when the gas moves out, instead of half the space being made available, it is much more apt to be only 25 percent to 35 percent.

Q. Why couldn't the joint space utilization continue on the present basis? A. It is unthinkable that unaffiliated companies would mingle operations involving customers,

money and vital records. Therefore, the question comes whether it is feasible to rearrange operations so that the surplus portion of the space can be made suitable for rental to an outsider. The cost of doing this must be compared to possible rental revenue.

In general, our office buildings were designed [964] and are laid out for combined operations. Most of them cannot be readily adapted to subdivision. Many of our service buildings are old converted generating plants or mill buildings which present the same kind of problem. The market for these properties is limited. In only a few cases did we find that a gain could be made by building now or by renting smaller quarters.

At LYNN it was found necessary to build a new stockroom adjacent to the electric distribution operating quarters and electric power plant. In Salem and in the case of four of the five branch stores in Suburban, provision was made for moving to smaller rented quarters.

Q. Have you made any attempt to test the reasonableness of the end results produced in the Ebasco report?

A. Yes. I have made some checks to be sure the end results reached were within reason. There never is precise comparability between any two companies. The more deeply you probe, the more obvious this becomes. Nevertheless, you can get some reasonably reliable measures. I am satisfied that the costs added to the NEES electric companies in this study give results which are in line with costs of other companies operating in this area. In fact, they would still be on the low side.

Q. Does the Ebasco Report, in your opinion, give a full measure of the loss of economy to the electric companies [965] in the event of gas severance? A. No, it couldn't possibly do so. It sets forth on a pretty conservative basis the out-of-pocket additional costs due to severance of gas after the new ways of doing business are established and

shaken down. It mentions but does not quantify the substantial expense and division of effort which would be necessary to revise systems, procedures and records to a straight electric basis.

Hearing Examiner Ewell: When you speak of the Ebasco report, you are referring to Exhibit 58?

Mr. Quarles: Yes, sir.

Hearing Examiner Ewell: I thought so, but I just wanted to be sure it is not some other report.

Mr. Quarles: No, it is the one that is held in suspense.

The Witness: It cannot begin to indicate the subtle but nonetheless real weakening of the individual operating units located around the System. This is something which cannot be measured in dollars and cents.

By Mr. Quarles:

Q. Do you feel that severance of gas would lessen the efficiency of the electric companies? A. Yes, I do. Joint operation of these local operations has been practiced successfully for years. It works well; it is efficient and it makes sense. Abandonment [966] now would be disruptive to the organization, confusing to the public, and result in greater cost to the consumer in the long run, with no offsetting advantages to justify it.

Mr. Quarles: I have no further questions to ask of this witness and ask that he be excused subject to recall for cross examination if desired.

Mr. Nowlin: I have no objection.

Hearing Examiner Ewell: All right; I think we will take a short recess now.

(Whereupon, a short recess was taken, after which the hearing was resumed.)

Mr. Quarles: Mr. Hearing Officer, I would ask the privilege of having Mr. Dunn, who is associated with me in this case examine the next witness.

Hearing Examiner Ewell: Certainly.

All right, Mr. Dunn; you may proceed.

Mr. Dunn: I will call at this time Mr. Krause. He has already been sworn in this case.

Hearing Examiner Ewell: Mr. Krause testified in the previous hearing?

Mr. Dunn: Yes.

Hearing Examiner Ewell: All right.

Whereupon,

R. F. KRAUSE

was called as a witness for and on behalf of the respondent, [1967] and having been previously sworn, was examined and testified as follows:

Direct Examination

By Mr. Dunn:

Q. Do you still have the same position and responsibilities you had at the time of your earlier appearance in this proceeding? A. No. At the time of my testimony in this proceeding on November 19, 1957, I was president and director of New England Power Service Company.

As of November 30, 1957, I resigned those positions and became president and director of New England Power Company—the electric wholesale subsidiary of New England Electric System. In that position I had special responsibilities in engineering, purchasing, construction and operating areas.

Effective September 1, 1959, I resigned as president and director of New England Power Company and became vice president of New England Electric System, and assumed wide responsibilities in the general area of management, employee and community and regulatory relations for both retail and wholesale operations.

Among other things I became responsible for the follow-

ing functions: retail management, coordination of distribution operations, sales promotion, labor relations, [1968] medical, personnel, rates and safety. My responsibilities cover both the electric and the gas business. Early this year in connection with the change in the organization and conduct of the business of New England Power Service Company, I became a vice president and director of that Company, retaining my position with New England Electric System.

However, my functions and responsibilities remained the same. On December 22, 1959, I was elected a director of the Narragansett Electric Company.

Q. Mr. Krause, referring to Respondent's Exhibit 53, which is the functional organization chart of the NEES holding company system, are you the individual that now fills the position entitled "Vice President Management"?
A. Yes.

Q. In 1957 Mr. Webster testified that he had special responsibility for retail company management which was then exercised through Alfred V. Coleman, a Vice President of NEES. Is this responsibility now under your jurisdiction? A. Yes. I am not only responsible for many of the areas where Mr. Webster then operated, but in addition I am responsible for the areas in which Mr. Coleman operated and have the responsibility for certain of the departments of the Service Company.

Q. In referring to retail company management, do you refer to both electric retail companies and gas retail [1969] companies? A. Yes. They both come under my jurisdiction.

Q. It was previously testified in connection with the system's electric business that approximately half of the plant investment and three-quarters of the employees of the NEES system companies were engaged in "retail-type" operations, that is, operations other than production and transmission. Is such true of the retail gas companies?

A. In the gas retail companies the proportion of plant investment and the number of employees engaged in such operations would be even greater. This is because natural gas, which represents the great bulk of our gas, is purchased rather than produced or generated, as in the case of our electric business, and because it is not necessary for our gas companies to engage in long distance transmission.

Retail-type operations include the distribution of gas, the promotion of its use, the collection of its revenues, and the administration of the gas business as a whole. About 80 percent of the gas plant investment and more than 90 percent of the gas employees are in retail-type operations. Of course, during the relatively short time each year, when gas is being produced for peak-shaving or other purposes, production personnel are augmented by drawing from the distribution forces. But, in general, I would characterize our gas distribution business as being [970] principally that of a retail operation.

Q. Is the extent of your supervision over the gas business about the same as that exercised over the electric business? A. In general, my supervision of each would be about the same. However, in certain areas my supervision of the gas companies would be only in matters of broad policy. For example, distribution problems and engineering for gas are generally different from these for electricity. With the gas division set up in Malden such matters can be centralized at that point and there is no need for coordination and standardization between the various regional areas such as occurs in connection with our several regional electric organizations.

Accordingly, coordination, standardization, etc., are handled at Malden. In another area, that of sales promotion and merchandising, in order that the gas business and the electric business may each be developed to its full potential, it is essential that the sales promotion and

merchandising organization for each be operated independently.

In general, the Gas Division is given a free hand in this area. So far as supervision of electric sales promotion and merchandising is concerned, that has been largely delegated to a department of the Service Company [971] headed by a Vice President. My activity in this area is to make sure that sales promotion is being actively and competently carried out by both gas and electric sales departments.

Q. At the time of the 1957 hearings, Lynn Gas and Electric Company was a recent acquisition by NEES and it had not been integrated into the NEES functional organization. Has such integration now taken place? A. The assimilation and integration of a new subsidiary into the system is a slow process. However, we have made considerable progress.

As of the first of this year we have separated Lynn Gas and Electric Company into two corporations, the Lynn Gas Company and the Lynn Electric Company. The President of the Lynn Gas Company is Mr. Dalbeck, the executive head of the Gas Division and the President of all the other gas companies.

The President of Lynn Electric Company is also the President of Suburban Electric Company. Progress is being made in the integration of Lynn Gas Company into the Gas Division and the Lynn Electric Company into the electric regional operation.

Q. Mr. Krause, would you describe in some more detail how retail gas operations are managed? A. As in the case of the management of the retail [972] electric companies, we can simplify the problem by breaking it down into four elements. First, there is the problem of gas supply; second, the problems of financing and accounting; third, the matters relating to engineering and other specialized technical

services; and fourth, the category of "everything else"—retail operations.

This latter includes operation and maintenance of distribution facilities, relations with customers and employees, regulatory matters and public relations. In the first of these categories the responsibility for gas supply rests with the Gas Division in Malden.

The second category, namely financing and accounting, should be broken into two parts. Financing in general is handled by Mr. Hanson and his staff, located in Boston. As the chief financial and accounting officer of the system, Mr. Hanson is treasurer of each of the gas companies, except Lynn.

In the accounting area, such is handled by the District Treasury organizations which in turn draw on the Service Company for audits, systems and methods and many other specialized services.

With respect to the third category, engineering and specialized technical services should be split. Generally, engineering is handled at the Gas Division headquarters; specialized technical services are handled by the Gas Division headquarters or are requested of the Service Company.

[1973] Q. That leaves, Mr. Krause, the fourth category, namely everything else—the so-called retail operations. Would you describe gas management activities in this area?

A. As in the electric end of the business, the local manager has broad powers in a wide range of activities including those directly affecting customers and employees as well as community relations.

In the electric end of the business there are regional executives between the local managers and the central organization Vice President for Management. On the gas side, the Gas Division headquarters with its executive head

and his assistant in charge of management occupy a comparable position to that of a regional electric executive, but there being only one Gas Division headquarters in lieu of several regional electric organizations, I have no problems of standardization and correlation between various regional gas groups.

Q. I would like to consider in greater detail certain areas of your supervision, but first of all, would you tell us the composition and role of the officers and boards of directors of the various gas companies? A. Each of the gas subsidiaries has its officers and board of directors. The president of each company is the chief executive officer, responsible to the Company's board of directors. The directors act upon matters of major [1974] policy.

Q. Mr. Krause, do members of the Gas Division participate in system-wide committee and managerial activities?

A. Yes. Gas men do participate in the system activities such as the safety committee, personnel activities, student training activities, the building committee and treasury and accounting activities. The head of the Gas Division participates in staff meetings of the regional retail managers, and gas men participate in system committees set up for special activities.

An important example of the latter is in connection with the periodic labor negotiations. A special committee is established to negotiate new labor contracts with a view to obtaining uniformity throughout the system. A gas man would be a member of such a committee. Generally speaking, the gas people participate actively whenever it will be mutually helpful.

Q. Would you give an example of an active part that you play in the management of retail gas operations? A. I believe a good example would be in the area of personnel. I actively supervise placement of personnel, establishment of salary scales, labor relations, recruitment, training,

medical and safety programs for both the electric and the gas businesses.

Q. Tell us in more detail of the recruitment and [975] training programs. A. The future of any business enterprise is dependent to a great extent upon good recruitment and training programs for personnel at all levels of responsibility. The larger the scale on which this can be done the more each particular company within a system such as ours benefits.

Accordingly, a system-wide recruitment and training program under my supervision is in effect. First of all, we assess the future technical and executive personnel that will be required in our business, both gas and electric, many years ahead. From this assessment we set up an annual quota and then go about recruiting both from colleges and other sources the type of young people that will be needed to develop into the qualified and able executives and technicians we need.

Obviously the Gas Division itself, which is roughly only 15 percent the size of our total combined gas and electric business, could not afford the scope and type of program which we have on a system-wide basis. And the fact that we are large and have a variety of positions into which men will be placed assists us in attracting the man we want.

With reference to our training program, this also has been described in some detail by Mr. Webster in the 1957 hearings; but briefly we have a training program for new employees which lasts from six months to two years. We try to give the trainees working assignments in various [976] divisions of the system, both gas and electric, and in both operations and management. This gives the trainee an opportunity to see the various aspects of our business and it gives us a chance to observe their abilities in various areas. This helps materially in the proper placement of the trainees on a permanent basis. It also gives the trainee

the feel of the system as a whole and a knowledge of system thinking and methods.

Q. Does the training end with the termination of the training period? A. Oh no. Training and experience continues so long as a man is working within our system. There is constant moving of personnel at all age levels as positions open up through promotions, retirements and death, etc. This permits the advancement of personnel with ability into various areas of operations and enables them to acquire broad experience.

We also run technical courses which the employees may take, and we often send men to college for specialized education in new areas to broaden their background.

Q. After the training period, is there much shifting of personnel between the gas operations and the electric operations of the system? A. Subsequent to the training period there continues to be rotation of the jobs between the electric and the gas divisions, but in some areas more than in others. For [1977] example, engineers and production men who attain experience and training in the gas business or in the electric business tend to become specialists in one or the other and their greatest value is to stay within the business in which their abilities show up.

On the other hand, particularly in treasury and accounting areas and in executive and administrative areas, the gas business is not materially different from the electric business and the interchange of personnel within these areas has definite advantages.

For example, the first head of the Gas Division was taken from an executive position in electric operations and then, after a period of years, was transferred to head the retail electric operations in Rhode Island. To sum it all up, as a large system we are able to get and to hold higher caliber men for the gas company positions than would the gas companies by themselves.

In addition, key positions in many areas of the gas business can be quickly filled as vacancies occur without the long individual training and consequent expense that would generally be required if the gas companies were independent of the NEES system.

Q. How are system policies handled with respect to capital expenditures in the gas business? A. At the beginning of each year an estimate of [1978] capital expenditures, usually for a year in advance, is prepared by the Gas Division headquarters against the backdrop of system policy in planning, the availability of money and the availability of engineering and construction forces and material and supplies. This estimate is developed within ground rules which are of equal application to the electric business and the gas business, but of course the availability of gas engineering and construction forces and of gas materials and supplies is pretty much governed by the judgments of the Gas Division.

As in the case of the electric business, the retail companies maintain what is called a continuing capital budget which is in the form of a looseleaf booklet divided into a "scheduled" and "unscheduled" section.

There is a separate sheet in the budget for each major gas project and information with regard thereto. The "scheduled" portion of the budget includes those items expected to be undertaken within a year; the "unscheduled" portions consist of major projects which are foreseen but not expected to be undertaken within a year. All of this makes it possible for the Boston office to maintain reasonable standards of consistency with respect to reliability of both gas and electric service and to the scheduling of new projects so as to be within the available resources of the system.

Q. Do you and your staff in Boston have responsibilities [1979] in the maintenance of the gas distribution system and

the handling of emergencies thereon? A. In general, the maintenance of the distribution system and the taking care of emergencies are handled by the Gas Division headquarters, but again within standards of reliability of service, etc., which are set up on a system-wide basis. But I am consulted as to matters of major policy.

Q. Please tell us more of your executive activities in connection with the promotion of sales and appliances, both gas and electric. A. As I have already indicated, it is our firm belief that consumers and investors, as well as the companies themselves, benefit from aggressive independent promotion of each of the businesses.

Accordingly, wide latitude is given to the Gas Division in the promotion of gas sales and appliances and likewise wide latitude is given to the men in charge of electric promotion. They are free to develop their own promotional policies, they have their own promotional organizations, they develop their own advertising, etc. In general, they are completely independent of each other and they actively compete with each other as well as with outside competitors. The gas and electric people develop their own budgets for promotion, and though they are submitted [980] to me for review, the extent of my review is to insure that they are consistent with good utility management.

In connection with the electric promotion, plans and budgets, they are developed by the Sales Promotion Department of the Service Company, in cooperation with the regional electric managers and their staffs.

Q. What is your role in community relations? A. In general, community relations are the responsibility of the local managers, whether it be in the electric end or in the gas end of the business.

However, the handling of community relations does not raise problems unique to either the electric or the gas business. They are usually very similar, if not the same.

Accordingly, through system-wide meetings, system policies can be developed and the experience of any given local manager, whether gas or electric, can be passed on to the others. In this way a more effective job can be done in the area of community relations than could be done by the gas companies operating by themselves or by any grouping thereof.

Q. Can a dollar value be placed on this type of cooperative effort? A. No. This is one of those many intangibles which members of a large system enjoy but which cannot be reflected in a study expressed in dollars—such as the Ebasco report which has been introduced in evidence in this proceeding.

[1981] Q. What about relationships with regulatory authorities, both state and federal? A. Though the Gas Division headquarters handles effectively and economically many of the routine relations with the State commission pertaining to the gas business, in other areas where such relations, though vitally important, are infrequent, the central organization can be of considerable assistance.

For example, in rate proceedings and in financing cases, on a system-wide basis we have a frequency of rate and financing cases which keeps personnel of the Central Organization active a considerable portion of the time.

For each gas company or even for all the gas companies as a group, this type of activity would be so infrequent that any substantial number of personnel devoted thereto would not be justified. Another area in which this would be particularly true would be in connection with mergers, consolidations, formation of new utilities, etc. On the federal level the Gas Division, with assistance from system lawyers does handle the activities before the Federal Power Commission in connection with its gas supply but the financial problems, not only under the Holding Company Act but also under the Securities Act of 1933 and the Trust

Indenture Act of 1939, are handled by the Central Organization, which has a constant load of work in those [982] areas. My participation in the regulatory activities of the Central Organization is an active one and I can be of great assistance to the gas companies in their routine business with regulatory commissions.

Q. In conclusion, do you feel that the entire gas business of NEES is managed as a unit? A. Very definitely. The management setup of the NEES system gas business, as described not only by me but the prior witnesses in this proceeding, to whom I have listened, is that which you would expect to find in a single corporation.

Though there is considerable de-centralization with respect to local management, in other areas, where it is beneficial, centralization exists, particularly in the Gas Division at Malden and the central organization in Boston and in the district treasury organization.

The size of our gas business and the compactness of the geographic locations of the areas served make it possible for our gas business to be run as an efficient unit within the NEES system. Although the gas companies are not in themselves self-sufficient, the NEES system provides the reservoir of men, materials, services and supplies, enabling it to do an efficient and reliable job.

Q. Would you briefly summarize the benefits the gas business enjoys from being operated as a part of the NEES system, as you see them? [983] A. Being part of the large NEES system, the gas companies enjoy the economies of joint operations, particularly in the customer service and accounting area and in the executive and administrative areas; they enjoy the financial strength of the system as a whole and they enjoy the higher caliber of management and administration which can be only justified by a system the size of the NEES system.

Q. Mr. Krause, a description of the Service Company

has already been given in this proceeding, and, for the record, I might state it is found at pages 237 to 263 of the transcript. Have there been any substantial changes in various departments of the Service Company since 1957?

A. There have been some realignments, particularly in the treasury and accounting areas, but no substantial changes.

Q. The 1957 description was given in connection with the electric integration phases of these proceedings and, accordingly, the description related primarily to the electric operations. Would you tell of the organization of the Service Company with reference to gas operations? A. In most departments of the Servicing Division of the Service Company, the expert services available are of such a nature that they are of equal value to the gas business. In such departments no further specialized training is required of the personnel in order for them to perform services for the gas business as well as the electric business. [984] A recitation of the names of the departments in the Servicing Division is enough to indicate that this is so. These departments are the tax department, the corporate department, the publications department, the personnel department, the labor department, the safety department, the plant accounting and depreciation department, the insurance department, the medical department, the rate department, the purchasing and stores department and the treasury department, the latter also including specialized general accounting and audit as well as system and methods.

However, in order to avoid restraining of competition between the gas and the electric business, the sales and merchandising department of the Service Company is limited to the electric business. The Gas Division of the holding company system has its own sales promotion and merchandising staffs.

A review of the services billed by the Servicing Division to Massachusetts gas companies during the calendar year

1958 shows that all of these departments, with the exception of the sales and merchandising department, provided substantial services for the various gas companies.

Q. With respect to the Engineering and Construction Divisions of the Service Company would you tell of their organization and operation with reference to the gas operations? [1985] A. First, as to the Engineering Division, the gas business does demand a degree of specialization from the engineers who perform work for the gas operations. In order to service the eight gas companies within the New England Electric System holding company system, there is a chief gas engineer with a staff of engineers and assistants under him. This particular group of people is located at the Malden headquarter's office of the Gas Division. They formerly were part of the Service Company, but when gas and electric management were separated it was decided that because of the specialized nature of gas engineering it would be more practical and economical to locate the gas engineers within the Gas Division offices in Malden.

At the same time they were transferred to the payrolls of the gas companies, though they could have remained on the payroll of the Service Company without affecting their services performed for the Gas Division.

Accordingly, the Gas Division during the test year 1958 called on the Engineering Division of the Service Company only for miscellaneous services such as blueprinting, minor drafting, fire insurance valuations, real estate services and minor engineering.

With respect to the Construction Division of the Service Company, it does some construction for the gas companies at their request, but the bulk of their construction [1986] is let out to independent contractors. However, the Service Company can and does provide a peak labor force which

the gas companies themselves would not be able to justify on a year-round basis.

Q. I show you a sheet entitled "New England Power Service Company—Summary of Services Billed—Excluding Massachusetts Gas Companies—Year Ended December 31, 1958" and ask whether the information given thereon is accurate and true to the best of your knowledge and belief? A. It is.

Mr. Dunn: I offer it as Respondent's Exhibit No. 73.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: It will be received.

(Respondent's Exhibit No. 73 was marked for identification and received in evidence.)

By Mr. Dunn:

Q. Mr. Krause, referring to Respondent's Exhibit No. 73, which has just been received, and also to Table III at the rear of the Service Company section in Volume 2 of the Ebasco Report, Respondent's Exhibit No. 58-B, do the two taken together show the total 1958 billings by the departments of the servicing division of the Service Company?

A. They do. They also show the relative size of the billings by such departments to the gas companies as compared [987] to the total billings to the other companies serviced by the Service Company.

Q. Mr. Krause, do the 1958 billings by the Service Company to the gas companies reflect the full value of the Service Company to the gas companies during that year?

A. Definitely not. During 1958 there were no unusual activities which could not be handled in routine fashion by the Gas Division personnel plus normal services of the Service Company.

However, if the Gas Division had a major rate case during the year, a proceeding such as the one in which we are now participating today before this Commission, or some other activity of such a nature that the maintenance

of a regular staff to handle it could not be economically justified, substantially greater services would have been requested of the Service Company.

The 1958 billings do not reflect the continuous availability of the large group of highly trained and specialized personnel of the Service Company. To obtain comparable services from non-affiliated accountants, rate experts, lawyers, etc., would cost the gas companies substantially larger sums than they would have to pay the Service Company, which operates at cost in accordance with the rules and regulations of this Commission.

Q. Could the gas companies, assuming they were [988] independent of the New England Electric holding company system, provide for themselves a comparable body of trained specialists through some service company or other mutual arrangement of their own? A. No, not to any such degree as the present Service Company offers. The maintenance of a large group of specialists such as are found on the Service Company payroll is justified only if their services can be fully utilized. It is obvious that the gas companies, which together aggregate only about 15 percent of the NEES holding company system, could not command and maintain a group of specialists such as the Service Company now has.

They could not justify as high a caliber of men as the NEES holding company can justify; and the men they could justify would have to cover more areas and so be less experienced in any given area.

To illustrate, let us consider a contested rate case. Not only does such a case demand of the regular employees and officers a substantial amount of time which they ought to be spending on regular business, but it also demands the skilled services of accountants, valuation engineers, financial experts, rate engineers, lawyers and others, all of whom must not only be skilled in their own fields but also

conversant with regulatory and judicial procedure and able to handle themselves in the heat of battle. [989] Such men are on the Service Company payroll and available to the gas companies. Any service company or other pool of specialists which the gas companies could justify, if they were independent of the New England Electric System holding company system, would not be able to supply but a fraction of the specialists which the present Service Company now has available. By and large the gas companies would have to retain outside professional firms at substantially greater costs.

Moreover, the gas companies would lose the value of the many informal contacts with the Service Company personnel on problems which can usually be answered by picking up the telephone. For example, a local manager might be asked to contribute to a local hospital or school building fund. If he hasn't had recent experience with such a request, he can call one of the system's lawyers to inquire as to the rights of a utility to make such a contribution and he can call the Vice President for Management as to policy. Another manager might be seeking local licenses for production and storage facilities and need a quick answer on the effect on insurance of adjacent properties. He can call the Service Company insurance department.

Another manager might need information for local assessors as to value of company property and can call the Service Company specialist in this area. Most of the calls [990] of this type take very little time to answer by a specialist who is familiar with the system gas properties and personnel. This type of on-the-spot service would be virtually impossible to duplicate from outside consultants.

In summary, the intangible but real benefits of having a large group of trained specialists available to the gas companies do not show up in the 1958 Service Company billings to system gas companies.

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Q. Mr. Krause, have there been any major changes in the Service Company organization since November 1957 when the Service Company was last described in these proceedings? A. Yes. As was brought out in this proceeding back in 1957, the Service Company did not then engage in policy making functions and its officials were not also officials of the holding company nor of the affiliated operating companies. This was in accordance with the policies established in 1941 at the time of the Service Company organization.

In 1959 application was made to the Securities and Exchange Commission for approval of modifications in the organization and conduct of business of New England Power Service Company so as to permit interlocking of officers and directors between the Service Company and New England Electric System and between the Service Company and the operating companies within the New England Electric System holding company system. The application further provided that such [991] officers and employees of the Service Company who had been or were also officers or employees of the holding company would be paid by the Service Company and that such payments and related expenses would then be charged to the companies benefitting from their services by methods of allocation already approved by this Commission. These modifications were requested in accordance with the principle that the cost of management is a recognized part of the cost of utility service and that the operating companies should bear the reasonable costs thereof.

As has already been stated by Mr. Webster, the change of organization and method of operation of the Service Company was to facilitate the elimination of duplicate management personnel within the holding company system and was to permit major streamlining of system management along functional lines. I need not repeat the reasons

which Mr. Webster has already given for the filing of this application, but I might add that it was done in order to promote the efficient and economical operation of the holding company system as a whole.

The proposed modification of the Service Company organization and method of operation was approved by this Commission on December 30, 1959, File No. 37-7. See Holding Company Act Release No. 14128.

Early in January of this year changes in the officers [1992] and directors of the Service Company were effected pursuant to the authority granted by said December 30, 1959 order of the Commission. All of the officers of New England Electric System became officers of the Service Company as well as retaining their positions with New England Electric System.

In addition, the top six officers of New England Electric System together with the top engineering and operations men, who at the time was on the payroll of New England Power Company, became the directors of the Service Company. This not only resulted in interlocking positions between the holding company and the Service Company but also between some of the operating companies and the Service Company.

Q. Do Respondent's Exhibits 54, 55 and 56, which were introduced through Mr. Webster, reflect the change in the Service Company officers and their present interlocking with other system companies? A. Yes.

Q. Does this change in the organization of the Service Company affect the organization chart of the Service Company introduced as Exhibit 28 in this proceeding on November 19, 1957? A. Yes.

Q. Will you describe the present situation? A. A functional organization chart for the New England Electric System holding company system has already been presented by Mr. Webster and as a result of the streamlining

[993] of the System organization this constitutes an organizational chart for the Service Company as well as for the entire holding-company system.

If you will refer to Respondent's Exhibit No. 53, the chairman of the board and the president, on the top line, and five of the six vice presidents, on the second line, are officers of the Service Company.

The various departments or functions of the Service Company as well as of the other system companies are shown under each of these vice presidents. As a result of the Service Company being incorporated into the system streamlined organization, no real purpose would be served by presenting an organizational chart for the Service Company alone.

Q. Has the change in the organization and method of operation of the Service Company necessitated modification of the service contracts between the Service Company and the other companies in the same holding company system? A. No. In addition to the services which were expressly spelled out in the contracts, it was contemplated that the companies having contracts with the Service Company, could request such additional services as they desired. Accordingly, early this year all of the operating companies, and New England Electric System itself, have requested the Service Company to perform such additional services as are [994] permitted by the Commission's order of December 30, 1959.

Q. What has been the net result of this change in organization and conduct of business? A. It has facilitated the streamlining of the holding company system organization along functional lines so as to achieve an efficient organization and the elimination of unnecessary duplication in management personnel.

Q. Will this change in organization and conduct of business have an effect on any showing of loss of economies

which would result from the separation of the gas business from the electric business of the system? A. Yes it will. During the test year of 1958 which is being used in this proceeding, the operating companies in the system enjoyed the advice of the top management personnel of New England Electric System without cost. As a result the operating expense figures of the operating companies do not include a normal amount of executive and administrative expense. The proposed staffing of the gas companies, on the assumption they were separated from the electric system, will include full executive and administrative personnel and, accordingly, the operating expenses for such companies will include a normal amount of executive and administrative expenses.

Therefore, a comparison of the pro forma operating expenses to the actual operating expenses shows a greater [955] difference than would be shown if the present companies had been incurring reasonable executive and administrative expense during the test year. I expect the figures with respect to this will be given by another witness. However I would like to add that the figures will not tell the full story. It is obvious that the smaller gas companies, if they are operating on their own, or even some combination of the gas companies operating separately from the New England Electric System holding company system, could not command and retain the caliber of executives which the much larger New England Electric System holding company system can command.

Accordingly, the figures will not reflect the full losses which the gas companies would suffer upon any separation from the New England Electric System holding-company system.

Q. Mr. Krause, you have testified that the New England Power Service Company performs substantial services for the gas companies within the NEES holding-company sys-

tem. If the gas companies were to be separated from the holding-company system, would it have a serious effect on the Service Company or on NEES and its electric companies? A. Your question requires consideration of the overall scope of the business done by the Service Company. During the test year of 1958 billings by New England Power Service [996] Company to other system companies totalled almost \$9,000,000 of which amount only \$317,000, or about 3½ percent was billed to gas companies.

Breaking this down by divisions within the Service Company billings by the servicing division totalled \$2,243,000 of which only \$217,000 or about 10 percent was billed to gas companies; billings by the engineering division totalled \$1,544,000 of which only \$11,000 or less than one percent was billed to gas companies; and billings by the construction division totalled \$5,209,000 of which only \$89,000, or less than two percent was billed to gas companies.

Taking the engineering and construction divisions first, the loss by the engineering division of less than one percent of its business is so small that it will be of de minimis effect; and the loss by the construction division of less than two percent of its business will also be of de minimis effect, especially when it is considered that the construction division can easily be adjusted by the employment and laying-off of labor forces.

Therefore, only the effect of the loss of business on the servicing division need receive any serious consideration. We studied the effect of severance on the servicing division and found that there might be reductions, including reduction in personnel, reflecting a net reduction of payroll and other costs of \$116,000, leaving about \$100,000 (or [997] 46 percent of total billings by the servicing division to the gas companies) to be absorbed by the billings to the electric companies and to NEES. When considered in relation to the size of the electric business of the NEES

system, this amount of \$100,000 is de minimis. (7/100ths of one percent of gross electric revenues or 11/100ths of one percent of electric operating expenses other than depreciation and taxes.) It certainly would not be a reason for concluding the Service Company was no longer economically necessary and appropriate to the operations of the NEES holding company system.

Q. Have you reviewed the Ebasco report which is Respondent's Exhibit 58 in this proceeding and especially the section relating to the Service Company and the effect on it of the severance of the gas properties? A. I have.

Q. Do you think it sets forth accurately the effect of severance on the Service Company?

Mr. Nowlin: Mr. Examiner, I assume that my objection on the electric company is also continuing with respect to the service company. If it isn't, I will renew it, because it is not an economy or loss of economy to the gas utility company.

Hearing Examiner Ewell: I will take it on the same basis, subject to a motion to strike.

[998] Mr. Dunn: Mr. Examiner, there is also an additional issue involved in this case, and that is the position of the service company in the NEES company holding company system and whether it can be retained as part of the holding company system, so I think this evidence goes to both matters.

Hearing Examiner Ewell: Well, I hope this matter can be pointed up in the morning. While I am sure that I agree that the law should have stability and certitude, at the same time it isn't static. I think everybody agrees to that. I think that the full implications of that should be pointed up in the morning.

Mr. Nowlin: I have difficulty in seeing that the loss of \$150,000 in the service company has anything to do with the qualification of rendering a service to NEES.

Mr. Dunn: Well, is it necessary, Mr. Hearing Officer, to show that the effect of the severance of the gas on the service company itself would not be material so far as the service company is concerned? I think Mr. Nowlin, perhaps, in his question has conceded that point.

Mr. Nowlin: I think it is de minimis, so go ahead. I will hold my objection at the present time.

By Mr. Dunn:

Q. The question was, do you think it sets forth accurately the effect of severance on the Service Company? [999]

A. I do. In fact you will probably notice that the figures which I have just stated for the effect of severance of the gas properties on NEPSCO are the same as those set forth in the Ebasco report.

This is because this section of the report was developed in the same fashion as the other sections: namely, Ebasco and the System personnel each started with the same basic figures for the 1958 service company billings; we then conferred with each other as to our respective thoughts as to whether personnel and expense might be eliminated in the Service Company as a result of the loss of the gas business and arrived at judgments with respect thereto.

Q. Were there any special problems in cutting down Service Company personnel? A. The cutting down of Service Company personnel is much more difficult than the cutting down of personnel performing some function such as customer accounting which requires certain manpower for a given number of accounts. Most services by NEPSCO are performed by highly skilled professional and technical people. This applies even in the lower paid areas. For example, in the Corporate Department, the newest girl to have joined the department in 1958 was a file clerk. She has now had two years of specialized training in the running of the Corporate Department files which is very specialized in view of the volume of legal work done by

[1000] the lawyers in that department. She being the only file clerk in the department, it is obvious that upon the dropping of 15 percent of its business, assuming that the gas business of that department is roughly comparable to that of the Gas Division in relation to that of the total System business, it would not be sensible to drop her and leave the department without any file clerk for its electric business.

Accordingly, in determining the way Service Company personnel could be cut down in the event the gas business was lost, we had to consider what personnel and what departments could be cut without affecting the services which would have to be performed for the electric companies. We considered broader reorganizations and shiftings of work loads, but found such would not be feasible or economical.

Q. It does not appear in the Ebasco report that any system executive personnel on the NEPSCO payroll were to be eliminated in the event of separation of the gas business? A. That is right.

Q. What is the reason for this? A. First of all, in 1958 the Service Company did not perform any executive and administrative functions for the NEES system companies. As I have already testified such was not done until the beginning of this year. Accordingly, in the test year only such executives were on the Service Company payroll as were necessary for the running of that organization.

[1001] In eliminating the gas business, if the gas companies were to be separated from the NEES system, the volume of the Service Company work would not be sufficiently decreased so as to justify any change in its executive personnel. But assuming that the 1960 changes in the Service Company organization had been in effect during 1958 and that the Service Company in that period had been performing executive and administrative functions for the

System companies, I am of the opinion that there could not have been any cutting down of the personnel therefor upon any severance of the gas business. My reasoning in this respect is that the executive and administrative personnel function for the System as a whole, without specialization in either the gas or the electric business, and that the loss of the gas business would mean only that roughly speaking each one would have about 15 percent of his time freed. In fact, I believe the percentage would be less because many of the executive and administrative gas functions are handled by the Gas Division headquarters in Malden.

Accordingly, in my opinion, cutting down of the executive and administrative personnel would not be feasible and the electric companies would have to bear the costs for which which previously had been billed to the gas companies.

Q. Mr. Krause, I will not ask you to discuss the computation of the dollar effect of these executive and administrative [1002] services inasmuch as I intend to explore this with a treasury witness. Let us turn now to whether or not in your opinion the gas companies would be generally weakened as a result of the severance of the gas business? A. In my opinion they would be seriously weakened. Though as set forth in the Ebasco report each independent gas company has been given an adequate pro forma staff to perform the routine operations of the gas business, the executive and administrative staff has been set up on a pro forma basis with an eye to the amount which each gas company could afford to pay as well as with an eye to what is necessary in order for the company to run.

In general, in my opinion this has required considerable sacrifice in the amounts that should be paid in order to obtain the caliber of men in the executive and administrative area which the gas companies now have available to

them as a part of the NEES system. The smaller the gas company the more of a shoestring operation it becomes.

Q. Mr. Krause, would there be a weakening of the system in the electric area, upon the separation of the gas business? A. Yes, but not to the degree that it would be experienced in the gas division of the system. The increase in operating expenses which the electric companies would incur is shown by the Ebasco reports. In addition there would be various intangible benefits which the electric system would [1003] lose. For example, it would lose the benefit of the sharing of experiences in the area of community relations. This would be particularly noticeable in the smaller municipalities of the system.

In the executive and administrative staffing there would be no immediate reduction or change of personnel at the higher levels but over the years probably the caliber of men that could be attracted and justified would be somewhat less than as if the gas properties remain a part of the system. The loss of intangible benefits to the electric system are harder to put your finger on than in the case of the gas system but I am confident that there would be some over the years.

Q. Mr. Krause, in your opinion as a system executive in charge of retail management, are the gas utility companies of the system so located and related that substantial economies are effectuated by being operated as a single coordinated system? A. I am of such opinion.

Q. Are you further of the opinion that the operations of the gas utility companies are confined to a single area or region within Massachusetts, which is not so large as to impair (considering the state of the art and the area of the region affected) the advantages of localized management, efficient operation and the effectiveness of regulations? [1004] A. I am.

Mr. Nowlin: I am going to object to that. I doubt that

this witness is qualified to express an opinion on a definition of an integrated system as it appears in the statute, despite the fact that he was a very capable and well liked employee for several years.

Hearing Examiner Ewell: He is a lawyer, isn't he?

Mr. Nowlin: He isn't qualified as a lawyer here. He is qualified as a management expert.

Hearing Examiner Ewell: But he is a lawyer.

Mr. Nowlin: I don't know.

Hearing Examiner Ewell: You are an attorney? You have practiced law for a number of years?

The Witness: Yes.

Mr. Nowlin: How long has it been since you practiced law?

Mr. Dunn: I am asking this question of him as a management expert and not as a lawyer. It seems to me he is qualified to have opinions within this area.

Hearing Examiner Ewell: He is an expert. I think he is entitled to have an opinion in this area.

Mr. Nowlin: I will object.

Hearing Examiner Ewell: I will allow it. I think he has already answered the question.

By Mr. Dunn:

[1005] Q. Are you further of the opinion that the gas companies of the NEES system cannot be operated as a system independent of the electric utility system of the NEES system without the loss of substantial economies which may be secured by retention of control by NEES?

Mr. Nowlin: Objection, Mr. Examiner. This is going far beyond the qualifications, at least the asserted qualifications of the witness.

Hearing Examiner Ewell: He is an expert in the field. I think I will have to allow him to express his opinion. He is an expert in the field. He has been in it for years.

The Witness: I am.

By Mr. Dunn:

Q. Finally, are you also of opinion that the continued combination of the electric system and the gas system of the present NEES system under the control of NEES is not so large (considering the state of the art and the area of the region affected) as to impair the advantages of localized management, efficient operation or the effectiveness of regulation?

Mr. Nowlin: I object.

Mr. Dunn: I might say, Mr. Nowlin, that these are questions of fact and not legal argument.

Mr. Nowlin: They are conclusions, expressions of [1006] legal conclusions, expressions of facts and conclusions.

The Witness: May I answer the last question?

I am.

Mr. Dunn: This completes my examination of Mr. Krause at this time.

Mr. Nowlin: Off the record.

(Discussion held off the record.)

Mr. Dunn: Mr. Examiner, Mr. Quarles would like to say something as to starting time tomorrow morning, if he may.

Mr. Quarles: I am a little embarrassed to suggest it, in view of the fact that there is so much work to be done, memoranda, and things of that kind, but in view of the witnesses that we have here that we hope to be able to put on tomorrow, I was going to suggest that we start at 9:30.

Mr. Nowlin: Off the record.

(Discussion held off the record.)

Hearing Examiner Ewell: Let's make it 9:45 o'clock. We will accordingly adjourn until 9:45 o'clock tomorrow morning.

(Whereupon, at 5:10 o'clock p.m., the hearing was adjourned until Friday, May 20, 1960, at 9:45 o'clock a.m.)

[1008]

PROCEEDINGS

Hearing Examiner Ewell: We have a quorum, we can get started.

Mr. Dunn: Thank you. The first witness this morning is Mr. Hanson. He has already been sworn in this case.

Whereupon,

HARRY HANSON

was called as a witness, and, having been previously duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Dunn:

Q. Do you still hold the same positions in the NEES System as you held when you testified in this proceeding in 1957? A. Since 1957 I have continued as the chief financial and accounting officer of the System but there have been some changes in the specific positions held by me and my immediate assistants. I am now vice president and treasurer of New England Electric System; vice-president, treasurer and director of New England Power Service Company and treasurer of all the Massachusetts electric subsidiaries and gas subsidiaries other than Lynn Electric Company and Lynn Gas Company.

Q. Will you please state as briefly as possible your responsibilities and sphere of activities? A. As principal financial and accounting office of the [1009] NEES System, I have responsibility for all financial, accounting, tax and insurance matters. These activities include security issues and borrowings, security acquisitions and transfers, cash transactions of all kinds, Federal and State tax matters, insurance matters, all phases of accounting from meter reading to customers' bills and general accounting, preparation of periodic reports to management, security holders, regulatory commissions, and the like.

Mr. Albert E. Westwood, my assistant, is Assistant Treasurer and Assistant Secretary of NEES and also Assistant Treasurer of the Massachusetts companies. As shown by Exhibit No. 53, there are several groups of personnel within the New England Power Service Company which report to me. They perform various functions for NEES and system companies in connection with tax matters, corporate financing reports and statistics, insurance matters, plant and depreciation accounting and auditing and systems work.

Q. Would you describe the groups in the Service Company which report to you? Let us start with the tax group?

A. This group includes a Vice President of the Service Company and six others. They are engaged in the preparation and the filing of all Federal and State tax returns, including the Federal consolidated tax return, in the preparation for an attendance at hearings on tax cases before the Internal Revenue Service and other taxing authorities, in conferences [1010] with revenue agents in connection with the examination of tax returns, and in studies of the taxable effect of mergers, sales of assets and property relocations, and in similar matters. The use of this specialized group is of particular value to the individual system companies because, as we all know, the determination of taxes for a group of companies such as ours requires specialized knowledge.

Q. Will you now describe the activities of the corporate finance and reports and statistics groups of the service company? A. The so-called corporate finance and report and statistics groups are divided into three sections, whose functions are closely related to one another. The corporate finance section of this group includes a Supervisor and six others who specialize in the preparation of registration statements, applications and declarations, and reports to security holders, institutions and others, together with

similar services. Another section includes a Supervisor, who is assisted by a total of eleven accounting and clerical personnel. The work in this section is quite varied and includes studies of income, cash and construction estimates, preparation of financing programs, preparation of data to satisfy indenture covenants, studies regarding rates of return and similar matters. Others specialize in compiling operating and other statistics, and in compiling and reviewing reports to State [1011] and Federal regulatory authorities, while others are concerned with keeping the books of account of NEES and preparing corporate and consolidated financial statements. The third section of this group includes four persons who provide transfer and dividend paying services for companies with minority stockholders, prepare and issue short-term notes payable to banks and to NEES, prepare reports on bank deposits and notes payable, issue Series E Savings Bonds under a payroll deduction plan, arrange advances to employees and make petty cash disbursements and perform similar services. •

Q. Would you now describe the activities of the insurance group of the Service Company? A. The insurance group consists of an Insurance Manager and eight others. Its activities include anticipating and meeting the insurance needs of all the companies, securing competitive quotations, placing contracts, adjusting losses, administering group insurance and annuity plans, advising on social security laws and regulations, and making appearances before industrial accident boards and others when required. For the System companies, both gas and electric, we have all the usual forms of insurance carried by utilities and they are packaged in schedule or blanket form so as to obtain the maximum protection at minimum cost. Just to name the more important coverages, we carry fire, windstorm, explosion, workmen's compensation, public and property damage liability and [1012] automobile liability. In addition, em-

ployee fringe benefits include annuities, group life, health and accident insurance, and Blue Cross and Blue Shield plans which provide hospitalization and surgical protection. The premiums paid by our companies total about seven million dollars a year.

Q. What about plant and depreciation accounting?

A. This group of the Service Company consists of a vice-president, who, together with his staff, specializes in plant accounting and depreciation matters to satisfy regulatory and other requirements. They advise and assist local accounting people on plant accounting and depreciation matters and participate in the examination of property and records by Commission personnel. In addition, the head of this group assists me on other matters including analysis work when rate changes are proposed.

Q. What other functions come under your jurisdiction?

A. Two additional groups in the Service Company, the Internal Audit group and the Systems and Methods group, are also under my jurisdiction, as are all retail Treasury and Accounting Organization personnel. These functions report directly to my assistant, Mr. Elmer H. Lothar, who is Vice-President and Comptroller of New England Power Service Company. I understand that Mr. Lothar will describe these groups in detail later, so I will mention their activities only briefly. The Systems and Methods group makes studies in connection with [1013] the accounting procedures of subsidiary companies and also reviews accounting forms and reports, with a view to standardizing and simplifying the accounting procedures. Another major assignment of this group is to keep informed in the machine and equipment field so they can make recommendations to us as to the best type to do the different jobs as of course automation is very important. The Internal Audit group makes annual audits of the companies and otherwise provides for necessary internal controls.

Q. What about the Retail Treasury and Accounting Organizations? A. The Retail Treasury and Accounting Organization is divided into seven general districts, each under the supervision of a Treasurer or an Assistant Treasurer. An Assistant Treasurer at Worcester administers local treasury and accounting activities for Worcester County Electric Company, Northampton Electric Lighting Company, Northern Berkshire Electric Company, Southern Berkshire Power & Electric Company, Central Massachusetts Gas Company, Northampton Gas Light Company and Wachusett Gas Company. An assistant treasurer at Malden administers local treasury and accounting activities for Mystic Valley Gas Company and Suburban Electric Company. Another Assistant Treasurer located at Lawrence Administers local treasury and accounting activities for Merrimack-Essex Electric Company, Lawrence Gas Company and North Shore Gas Company. An Assistant [1014] Treasurer in Quincy supervises local treasury and accounting activities for Quincy Electric Company, Weymouth Light and Power Company and Norwood Gas Company. A Treasurer at Lynn administers local treasury and accounting activities for Lynn Gas Company and Lynn Electric Company. This situation at Lynn is a temporary one as we are planning on mergers in due time. In addition, there is a Treasurer located in Providence, Rhode Island, who administers treasury and accounting activities for the Narragansett Electric Company, the Mystic Power Company in Connecticut, and as Assistant Treasurer the treasury and accounting for Attleboro Electric Company in Massachusetts. Another Treasurer located at Lebanon, New Hampshire, administers local treasury and accounting activities for Granite State Electric Company. The last two Treasurers are not concerned with any gas operations as we disposed of our Rhode Island and Connecticut gas properties in 1959.

Q. What do the local Treasurers and Assistant Treasurers do? A. The Treasurers and Assistant Treasurers of these companies administer all of the local treasury and accounting activities for these companies. As a general rule the books of account and other basic accounting records are maintained at the principal office of each of the companies, while billing and other customer contact functions are generally performed in company offices with collection agencies located in each [1015] sizable municipality served.

The day-to-day accounting activities of the operating companies are under the direct supervision of the administrative personnel located in the field. There is, of course, a close working arrangement between Boston office personnel and these local treasury and accounting groups. I can best summarize this by saying that the work done in the local offices under the supervision of the local Treasurers and Assistant Treasurers is work involving customer accounting, general accounting, payrolls, plant accounting and stores, while treasury and accounting activities involving temporary and permanent financing, relationships with security owners and dealers, special accounting problems and studies, systems work and auditing, tax and insurance matters, and similar items are handled by personnel with headquarters in Boston.

Q. Does that cover all of the Treasury and Accounting Organization? A. No, it does not. We also have two groups that maintain all of the accounting records, do the payroll and billing work and the like for both the New England Power Service Company and New England Power Company. Each group is supervised by an Assistant Treasurer who reports to me.

Q. Mr. Hanson, will you now describe to us the particular areas where, as you see it, joint gas and electric activities are performed? [1016] A. Starting with the central organization in Boston, all of the executive and administrative

group are engaged from time to time in performing functions for both gas and electric companies. In addition, most of the specialized groups in the New England Power Service Company are also engaged in performing functions for both gas and electric companies. This is particularly true of the Servicing Division. In the Engineering and Construction Divisions there are relatively few gas activities performed. Going to the Gas Division in Malden, the personnel of the Gas Division are engaged in joint activities only between gas companies. At the local offices in the common retail areas, while there are other people engaged in performing joint functions, they are for the most part engaged in treasury and accounting activities. Other areas involved are customer service, garage, and similar activities. By and large, however, when measured by the number of people involved in performing joint activities on a day-to-day basis, the joint functions at the local offices are principally within the treasury and accounting organization.

Q. Will you please discuss now some of the principal benefits derived by the gas companies from being part of the System, as you see it? A. Such benefits are many and varied. Of particular importance is the area of joint utilization of personnel and equipment. With respect to New England Power Service Company [1017] personnel this means that specialists are available from the day-to-day problems of these gas companies as well as the electric companies. No doubt many functions are now performed, because of specialized knowledge, in a fraction of the time that it would take people to perform a similar function for these companies on an independent basis. Similarly, the Gas Division organization, because it can draw on the executives in the central organization at Boston, provides management services to the gas companies at minimum costs. When we get to the local operations, or the day-to-day operations of running a gas or electric utility, we get

substantial benefits by being able to use personnel jointly for these operations. The combination receiving and dispatching of service calls, the execution of combination service calls, the reading of meters of combination customers, joint customer bookkeeping, the maintenance of joint cashing functions and joint credit and collection activities, are but some of the more obvious benefits derived by both the gas companies and electric companies from combination operation of treasury and accounting functions.

Q. Do the gas companies enjoy Federal income tax benefits by reason of being part of the NEES system? A. All of our companies participate in a consolidated Federal income tax return and the operating subsidiaries obtain substantial tax advantages, the most important of which [1018] results from the deduction of interest and other expense of NEES. The net result is that the Federal income taxes of our operating subsidiaries are about 10 per cent less than what they otherwise would be. The actual effect of severance of the gas properties would result in the transfer of aggregate tax savings of from \$150,000 to \$200,000 a year from the gas companies to the remaining electric companies.

Mr. Nowlin: I am going to move to strike the last answer as being irrelevant. The Commission has held that the loss of tax benefits is not a loss of economy.

Mr. Dunn: Mr. Examiner, the previous cases as I have found them go to the weight of the testimony. They have not excluded the testimony on Consolidated tax savings. I urge that the evidence be allowed.

Hearing Examiner Ewell: Will you read the question and answer?

(Question and answer read by reporter)

Hearing Examiner Ewell: As I said yesterday, the law is not static and the Commission might want to look at it again.

Mr. Nowlin: They took a look at it in three cases and turned it down in all three cases.

Hearing Examiner Ewell: I think the objection comes to the weight. I am going to let it stand. Overruled.

Mr. Nowlin: Exception.

[1019] Mr. Dunn: Do I understand the evidence is allowed in the record?

Hearing Examiner Ewell: It is.

Mr. Dunn: Thank you.

By Mr. Dunn:

Q. What are other important benefits to the gas companies as part of the NEES system? A. The advantages to the subsidiaries of NEES through their relationship with the total treasury and accounting organization are many and varied. Because of the broad experience and varied contacts of Boston office personnel, many advantages and economies are obtained by subsidiaries. Through contacts with the financial world, and this includes banks, investors and investment firms, it has been possible to finance the construction programs of each of the subsidiaries on a basis which provides each company with a sound capital structure. The financial knowledge of NEES and NEPSCO personnel has also proven of substantial importance in formulation of plans, and the carrying out of such plans, for the consolidations and mergers of companies, thereby simplifying financing problems and obtaining savings through eliminating companies and combining operations. This is illustrated by the fact that in 1935 when NEES registered under the Holding Company Act there were 31 active electric subsidiaries, 11 active gas subsidiaries and 14 active combination electric and gas subsidiaries, a total [1020] of 56 active operating companies, while at the present time our active electric subsidiaries number 14 and our active gas subsidiaries number 8, a total of 22. Further progress in this direction is anticipated in the future.

Q. Did you hear Mr. Webster's testimony as to the retention of Ebasco Services Incorporated to study and report on the effect of severance of the NEES gas companies from the NEES system, and also his testimony as to the scope of the study and the assumptions on which it was to be made? A. I did.

Q. And did you hear both Mr. Webster's testimony and Mr. Dalbeck's testimony as to the participation of the NEES system in the making of the Ebasco study? A. I did.

Q. Do you have anything to add? A. No, I don't. I was in agreement with the need for obtaining the independent judgments and opinions of an outside firm of recognized standing and I participated in the selection of Ebasco for the job. Also, I participated in the determination of the scope of the study to be made by Ebasco and in the assumption to be used, and I concurred therein. As to the participation of the NEES System in the making of the Ebasco study, I agreed that personnel of the NEES System and of Ebasco should cooperate but that each should be in a position to support independently their own judgments.

Q. Would you, as the chief financial and accounting officer of the NEES system state in general terms the participation [1021] of the treasury and accounting personnel in the making of the Ebasco study. A. Since one of the principal areas which would be affected by separation of the gas properties from the NEES system would be the treasury and accounting activities and since the effect of separation on other divisions of the organization would be reflected in increased pro forma operating expenses, it was obvious that the treasury and accounting personnel would have a major role to play in the study of the effect of severance. In order to avoid unnecessary duplication of expense in having Ebasco come into our various offices and dig out all the mass of material that was necessary to start with,

when the material was readily available in our own records and in our reports, my department undertook the job of collecting the requested material and making it available to all concerned.

Q. Was the collecting and dissemination of information the extent of the work required of your department in connection with the ascertainment of the effect of severance?

A. By no means. I was also aware that my department would have a second big area of responsibility, namely, the analyzing of the effect of severance on the treasury and accounting organization and the making of judgments as to the pro forma treasury and accounting organizations for the independent gas companies and for the system electric companies. I also realized that there would be substantial effect from the [1022] severance upon other areas of my responsibility such as insurance and taxes and that such would require careful analysis on our part. And finally, there was the task of reviewing the judgments of Ebasco as set forth in their report and of analyzing them along with our own conclusions.

Q. Would you tell us of the assignment of personnel in your treasury and accounting area. A. Initial assignments of personnel were made with a view to collecting and supplying to both Ebasco and ourselves the necessary basic material. Not only did we develop the material which we felt was necessary for appropriate evaluation of this situation but also we supplied such additional material as Ebasco requested of us. As the basic material became available, it was then necessary to develop the pro forma organizations for the staffing of the independent gas companies and the electric companies upon severance of the gas companies. At that time, additional personnel were assigned to participate in conferences with Ebasco as to the necessary staffing—particularly in the treasury and accounting

areas. Then followed a period of evaluation of the material on existing organizations and of the pro forma organizations and, as it became apparent that further areas of investigation were necessary, additional personnel specializing in particular areas were assigned to the tasks. By this spring a substantial number of people, particularly in the higher echelons of our treasury and accounting [1023] organization, were devoting all or a considerable portion of their time to the studies of the effect of severance.

Q. What has been your personal participation in the severance studies? A. First, as I have already indicated, I participated in deciding the scope of the studies. Then came the initial assignment of personnel and the making sure that the studies got under way in an efficient manner. As the material has flowed in I have conferred with my principal assistants as to the content of the material and as to the staffing of the pro forma organizations—in the treasury and accounting areas on a board policy basis I participated in the making of our own judgments as to the effect of severance. Finally, all the way through it has been my responsibility to see that adequate personnel from the treasury and accounting organization were assigned to do the job, but without interference with the necessary functions of operating our system on a day-to-day basis.

Q. Mr. Hanson, let us consider a couple of areas with which you have particular concern. Would the adjustment of taxes be such an area? A. Yes, the tax personnel in our system report directly to me.

Q. Are these adjustments properly shown in the Ebasco report? [1024] A. In my opinion the tax adjustments as reflected in the Ebasco report are accurately shown.

Q. Mr. Hanson, while we are on the subject of taxes, would you tell us more about the tax adjustments and the effect of severance upon the allocation of the consolidated tax savings which the NEES gas subsidiaries now realize.

Mr. Nowlin: Objection, Mr. Examiner.

Hearing Examiner Ewell: That is the same question?

Mr. Dunn: It is.

Hearing Examiner Ewell: And the same objection?

How much testimony along this line do you have?

Mr. Dunn: There is not going to be very much, sir.

Mr. Nowlin: Anyway, it is too much.

Hearing Officer Ewell: What case did you cite on that point? You said the Philadelphia case, and how old is it?

Mr. Nowlin: It is a case decided June 1, 1948.

Hearing Examiner Ewell: 12 years ago?

Mr. Nowlin: And Cities Service case was decided in 1944 and there is another prior. I think it is the Atlantic Traction Company which was decided about that time. We have had two or three different commissions who have set on the cases.

Hearing Examiner Ewell: It has been uniformly held that the tax saving is irrelevant?

[1025] Mr. Nowlin: The Commission disregarded it so there is no need of putting it in there if the Commission is not going to consider it.

Mr. Dunn: They have not held it irrelevant. It is a matter of weight to be given to the evidence.

Mr. Nowlin: They have been given no weight.

Mr. Dunn: You did raise an interesting point that the cases were decided in 1944 and 1948. We have now had another 10 to 15 years of experience with consolidated tax savings. It has become a fact of life and the regulatory commissions in setting rates have now taken this into consideration in determining the amount of taxes that will be allowed in the rate structure. They take the actual taxes paid, that is, the lower taxes resulted from a consolidated tax savings. They do not allow you to get a return to cover the hypothetical taxes that you would have if you were on a separate return basis.

Hearing Examiner Ewell: Well, I certainly do not want to make a ruling contrary to any definitive ruling of the commission.

Mr. Nowlin: May I read this quote?

"With respect to the inclusion of these claimed losses of 'the saving resulting from the use of a consolidated tax return by Philadelphia Company and its subsidiaries', it may be noted that we have on previous occasions considered and rejected the argument that tax savings constitute 'substantial [1026] economies' within the meaning of Clause A. We have pointed out that such savings bear no relationship to any operational functions of retention and control, that the argument assumes a continuation of current tax laws which may be changed, and that furthermore we cannot permit the incident of tax savings to disrupt the basic policy of the Act that holding companies generally will be limited to a single integrated system." And they also cite Cities Service, 15 SEC 962, 1944, and Federal Light and Traction Company, 15 SEC 675, 1944.

Mr. Dunn: I would like to suggest that in reading that quotation he should have continued and read the next sentence. It continues, "It should be noted that, while respondents have attempted to claim this tax item as an additional loss their aggregate figures do not take into account the very much more substantial tax reduction which would result from their estimated increased expense."

Now the pertinance of that sentence is that as a result of the increased expenses that will stem from the severance of the gas properties you do have a reduction in your taxes and the Commission has said to have it consolidated, that is, to have a consolidated tax saving be of any weight you should offset it with these reduced taxes from increased operating expenses. We have done that in our studies and I understand it is so reflected in the Ebasco reports. We feel that the tax picture has been adequately presented and

that taking both [1027] phases of it together it is relevant and material to this case.

Mr. Nowlin: To further illustrate it presume these eight companies were under a holding company they could all file consolidated tax returns.

Mr. Quarles: Mr. Examiner, there are a number of areas in which apparently we and the staff are in disagreement as to what may and what may not be taken into account.

The taxes are one. The savings to the principal system is another and there may be others. Our position here in this hearing is to undertake to make a record that will enable the Commission to give fair consideration to the contentions on both sides of these questions.

Certainly, the tax situation today is not covered by precedent, by the rulings of 12 or 15 years ago. We wish to be in a position to present this argument to the Commission and we would hope to prevail. If we do prevail then the record is complete and the decision can be made. If we do not prevail on any one of these, no particular harm whatever has been done by letting the evidence in.

In the cases that have been referred to yesterday and today not one of the Commission's cases excluded the evidence. In each case they have taken it under consideration, have decided whether it should be given a little weight, no weight, or considerable weight, but not one of them is a precedent for excluding the evidence from the hearing before [1028] the Hearing Officer.

The cases in which the SEC has said "Loss of economies to a principal system is not pertinent or should be given little weight", in each of the cases, they took the subject up and considered how much weight should be given, but they did not say the evidence should have been excluded. The SEC has been reversed on this question of what types

of losses should be taken into account and since that reversal, has not had an opportunity to reconsider it. We want to raise that issue for consideration.

Hearing Examiner Ewell: In which cases were they reversed?

Mr. Quarles: Louisiana Public Service Commission v. SEC, 235 F. 2d, 167. That case went to the Supreme Court on an entirely different issue so the decision of that court stands. In that particular case it stands. Our purpose here is to bring in to the record the facts that are relevant to each of these issues so that the Commission can consider the case in its entire context and can rule on these issues as a substantive matter and not as an abstract procedural matter.

Hearing Examiner Ewell: Do you have that case available?

Mr. Quarles: I do not have the reporter. I imagine it is here in the building.

Hearing Examiner Ewell: I would like to read it before [1029] I rule on this. The thing that bothers me, I certainly do not want to allow evidence in—I am inclined to let it in, as I said before, on the ground that it seems to me it goes to the weight, the objection goes principally to the weight, and having in mind that the Administrative Procedure Act states that any probative evidence may be received in these proceedings and the further ground that I think the Commission might want to take a second look at some of these problems. I would be inclined to let it in, but I do not want to open up something that is going to involve a lot of exhaustive cross-examination in an area that might greatly extend this record. So, I want time to consider it and I would like to see these cases that you mentioned before I make a definite ruling on it.

Mr. Quarles: Of course. We do not yet know what the position of the staff may be with regard to some of the

things that we are claiming as losses to be taken into account, but so far as we can see if you add all of these controversial issues together they are a very small part of this case, and if everyone of them should ultimately be resolved against us we still maintain we can show clearly and conclusively sufficient losses of economies to come within the statutory requirement, but we feel we are entitled to have the record sufficiently complete to permit an argument, not just of any matter on which the law is clearly established. We are not undertaking [1030] to make new law which reverses decisions. We think in this particular case that we are following the law, that the Commission itself will follow in regard to taking into account the losses to the principal system. We think that in the case of taxes where we have gotten to the point that the tax effect on the operating companies is one of the factors in determining the rate that will be allowed, how it will affect the ultimate consumers, we think that is something that the SEC will want to take a look at.

Hearing Examiner Ewell: It is a fact taken into consideration on the rates?

Mr. Quarles: Yes, sir. It is my understanding and counsel for the Massachusetts Department of Public Utility is here.

Mr. Murry: That is correct. It is.

Mr. Quarles: We think it is important and the Commission is entitled to have the whole story before it even if in the end it decides that you should not give it very much weight. We expect they will decide that it should be given full weight so we would urge on you in any of these doubtful matters to resolve the doubts in favor of letting the evidence in so it is there rather than running the risk of later having a reversal which would invalidate this procedure and going through the whole thing again.

Hearing Examiner Ewell: I want to be sure there is [1031] a reasonable doubt.

Mr. Quarles: There is more than a reasonable doubt, sir, and we will get the case.

Hearing Officer Ewell: Can you go on with something else and pass this for the time being and have a recess and take it up after the recess?

Mr. Nowlin: Mr. Examiner, I would like to state that I have a copy here of the staff's brief that was filed in the Court of Appeals for the Fifth Circuit in the case which Mr. Quarles referred to, the Louisiana Case. I notice the following comment, the Philadelphia Case is cited in support of this proposition and there is a footnote, "Although Petitioner in this case argued that the loss of economies must be measured by its effect upon the principal and additional systems, the Court of Appeals apparently deemed this not worthy of consideration since the discussion was solely in terms of loss of economies to the gas system." So, apparently the issue was involved in the Philadelphia Case, but the court did not think it warranted enough attention to make any special discussion of it.

Hearing Examiner Ewell: May I see that case, please?

Mr. Nowlin: Yes, sir.

Mr. Quarles: I might respectfully suggest that the decisions of the court are entitled to a little more consideration than the statements of the SEC staff in their briefs.

[1032] Hearing Examiner Ewell: The Commission has not passed on this question since the Circuit Court case has it?

Mr. Nowlin: Not that I know of.

Mr. Quarles: Not that we know of.

Hearing Examiner Ewell: All right, let's proceed. Can you just pass this particular subject for the time being and go back into something else until the recess.

Mr. Dunn: Yes.

By Mr. Dunn:

Q. Mr. Hanson, does the Insurance Department report directly to you? A. Yes.

Q. Would insurance costs be affected by severance of the gas companies from the NEES System? A. Yes. It early become apparent that the gas companies upon becoming independent would have to bear substantial increased insurance costs. This being so, I immediately directed our insurance experts to make a thorough and careful analysis of the situation.

Q. Would you tell us something about this? A. Our insurance personnel analyzed our own records and conferred with several insurance brokers, agents, and insurance companies with whom we deal. Some of these investigations were made by company personnel alone, and some of them were made [1033] by company personnel alone, and some of them were made with Ebasco consultants. After our consultations were arrived at our our own insurance personnel reviewed the conclusions with me.

Q. In your opinion, Mr. Hanson, do the increases shown in the Ebasco Report fully reflect the effect of gas severance and indicate the increased costs which the independent gas companies would have to pay? A. They substantially reflect our own conclusions. However, I feel that they do not reflect the whole situation. A good example of this is the amount of insurance coverage. The 1958 insurance premium cost to the gas companies for the coverages where we would expect increases in costs under independent operations aggregated about \$140,000, which would increase if these companies were separately owned and operated to about \$420,000, an annual increase of \$280,000. This, however, doesn't tell the complete story because the increased costs were based upon less favorable amounts of insurance. I think it quite possible that a small and independently operated gas company would have difficulty buying similar

broad form insurance as under the NEES program because of the reduction in spread of risk and premiums. With reduced limits of insurance a bad accident might put a company into bankruptcy, and perhaps more importantly, there would be a lack of money to settle any judgments against the company. When risks can be [1034] spread and coverages combined it gives a greater volume of insurance and premiums resulting in definite advantages.

Q. Mr. Hanson, in your evaluation of the Ebasco report do you consider that the pro forma organizations set forth therein reflect an overstaffing or an understaffing or something in between? A. In my opinion the organizations set forth therein are minimum organizations. Though we have assumed that good service by these gas companies is to be continued if they became independent, we have also realized that they could not afford personnel adequate to carry on all the specialized functions which are now performed upon request by the Service Company and other system personnel on a cost basis. In my opinion the staffing has been on a conservative side. This is particularly true in the executive and administrative area. In the operating areas you can't cut an organization below certain levels physically necessary to do the work. For example, a meter reader can cover only so many meters a day. But in the administration you can make some cuts which have their effect principally in the quality of service provided over a long period of time.

Q. What of the salary and wage levels set forth in the Ebasco report for the pro forma organizations? A. Again I differentiate between executive and administrative personnel and operating personnel. For the latter, [1035] wage levels are pretty well established and there is little judgment to be exercised. In my opinion the Ebasco report reflects such wage levels. For executive and administrative personnel, the salary scales are more a matter of judgment

—particularly in the higher echelons. As the top treasury and financial officer of the NEES system I have knowledge not only of our own salary scales but also of those of comparable utilities—particularly in the New England area. I believe the pro forma salary scales set forth in the Ebasco report are conservative. They reflect the size of the company involved as well as the responsibilities of the respective positions. They are stated on the basis of a concern which has been in operation with higher salaries for senior men and lower salaries for younger men in training. They are not set up on the basis of what it would cost to lure and obtain a completely new staff of able and experienced men from existing positions in outside concerns.

Q. How about the other pro forma costs set forth in the Ebasco studies? A. Again I am of the opinion that they are minimum costs. Only the essentials have been provided for. For example, in the treasury and accounting areas I believe only the essential space and equipment requirements have been provided.

Q. Are you in general agreement with the conclusions [1036] that are set forth in the Ebasco Report and with the dollar effects shown therein on the income statements of the gas companies and the electric companies of the NEES System upon the separation of the gas companies from the NEES System? A. I am.

Q. Mr. Hanson, do the Ebasco reports reflect all of the losses which the gas companies would suffer upon separation? A. By no means. The Ebasco report gives the dollar effect of severance on the income statements. However, they do not reflect such matters as losses of intangible benefits or losses which would be chargeable to plant accounts rather than operating expenses. Though the annual losses which would be chargeable to plant are probably not important in comparison to the substantial losses which

would be charged to operating expenses, the losses of intangible benefits would be serious.

Q. Would you give an example of an intangible benefit which would be lost to the gas companies upon severance from the NEES System? A. Yes. Financing is one of my particular responsibilities. The NEES System as it now exists requires thirty to fifty million dollars a year to finance its construction. This means we are constantly raising funds and have frequent issues of common and preferred stocks, bonds, and long and short-term notes. We are known in financial circles and I'm confident that [1037] the credit of NEES has enabled the gas companies to finance their needs at a lower cost than they could have done on their own. We are thoroughly familiar with the many and intricate requirements of regulatory agencies, stock exchanges and investors and can efficiently handle them on a cost basis for all of our companies.

Q. Would you tell of the financing of the NEES gas companies in recent years? A. The financing of our gas subsidiaries in the past ten years has not been an easy task. My mind goes back to 1952 during the conversion of our gas subsidiaries from low btu gas when it was necessary to adjust all consumers' appliances and equipment. The earnings of our gas subsidiaries had been very low indeed for several prior years so they didn't present a pretty picture for outsiders to invest in. The conversion costs of our subsidiaries totaled about \$5,000,000 and the Massachusetts Department of Public Utilities authorized amortization of this cost through charges to expense over a ten-year period. We therefore were after conversion loans which would also be paid over a ten-year period to phase in with the accounting.

I approached a number of banks and insurance companies but only four had any interest whatever, those being the John Hancock Mutual Life Insurance Company, Travelers

Insurance Company, Chase National Bank of New York and the National City [1038] Bank of New York. I doubt whether we could have got four interested groups if it hadn't been for the gas companies' affiliations with NEES. I might add the shopping around took several weeks and culminated in our obtaining conversion loans from the National City Bank of New York with an interest rate on the first two installments of $3\frac{1}{4}$ per cent, the next three at $3\frac{1}{2}$ per cent and the last five at $3\frac{3}{4}$ per cent, or an average cost of $3\frac{2}{3}$ per cent, which is certainly quite different than could be obtained under present money conditions or could have then been obtained if the gas companies had not been part of the NEES system. I also recall the difficulties at first on short-term bank borrowings for the gas companies and it was necessary for some time to pay more than the prime rate. But we kept whittling at this so that for several years now the gas companies have enjoyed the prime rate on their short-term borrowings. The bond financing by our gas companies was also time-consuming and required the services of people who knew just what to do as many conferences with rating agencies, insurance companies, prospective underwriters, and the like, were necessary.

I recall that in 1950 one of our then-gas subsidiaries, named Salem Gas Light Company, had built up its short-term debt and after many talks we were able to sell \$1,000,000 worth of $3\frac{1}{2}$ per cent twenty-year bonds to the John Hancock Life Insurance Company of Boston. This wasn't too long after Salem [1039] Gas Light Company had abandoned coal gas operations and changed over to water gas and the outlook was certainly not encouraging as a considerable amount of investment in coal gas plant and equipment had to be written off against surplus over a period of years. Without going into more details, several bond issues aggregating 14.5 million dollars have been

issued by our gas subsidiaries in the period since 1951 and they all presented problems of one kind or another. It is my firm conviction that, if it hadn't been for the equity interest by NEES in these gas companies and having qualified personnel to do the jobs that were necessary, the financing and accounting problems would not have been solved in so satisfactory a manner.

Q. Are there other intangibles in the area of your immediate responsibility which would be lost? A. I think of an important intangible which now exists and which is going to increase in importance. For some time a group of our personnel has been studying further centralization of accounting activities through the use of modern electronic equipment. We haven't as yet ordered a Univac, an IBM 7070 or anything of that size but we have been carefully looking into installations at Boston Edison Company, Arizona Public Service Company and other locations, and in my opinion, it is only a matter of time before the major portion of our volume accounting for all our companies will be done in one or two [1040] locations with the use of computer type equipment. Naturally something of this kind won't be done unless substantial economies are anticipated and if our gas subsidiaries are not a part of the system it follows that they will not share in the economies and it would reduce the economies to the electric companies. It is, of course, necessary to have substantial volume to warrant the purchase or renting of this new equipment.

Q. Do you have an opinion as to the general advantages to each of the gas companies as part of the large NEES System? A. In my opinion it has many advantages, a few of which I have given. In general, large organizations can justify specialized personnel and equipment of much higher caliber and greater efficiency than small organizations can justify; and the large organizations can more effectively

deal with outsiders in areas such as financing, purchasing, regulations, and so forth.

Q. In the treasury and accounting area, upon separation of the gas companies from the NEES System, would there be any benefits to either the independent gas companies or to the remaining electric companies? A. Frankly, I can't think of any material benefits which either the gas companies or the electric companies might realize in the treasury and accounting area upon the severance of the gas companies from the NEES System.

Q. I hand you one copy each of the New England Electric [1041] System Annual Reports for 1958 and 1959 and ask you to identify and describe them. A. These are the Annual Reports of NEES to its shareholders for the years 1958 and 1959. In addition these Annual Reports were mailed to employees, security analysts, investment houses and the like. The reports include information on developments during each year, as well as a discussion of pending matters, together with financial and operating statements. The financial statements, certified by Lybrand, Ross Bros. & Montgomery, independent public accountants, are on both a corporate and consolidated basis and include comparative income statements for each year as well as comparative balance sheets at the end of each year.

Mr. Dunn: Mr. Hearing Officer, I offer these two reports as Respondent's Exhibits No. 74 for 1958 and No. 75 for 1959.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: Received.

(Respondent's Exhibits No. 74 for 1958 and No. 75 for 1959 were marked for identification and received in evidence.)

By Mr. Dunn:

Q. I next hand you one copy each of the Annual Statistical Reports of NEES for the years 1958 and 1959 and

ask you to identify and describe them. [1042] A. These are Annual Statistical Reports of NEES and its subsidiaries on a consolidated basis for the years 1958 and 1959. Copies of these reports are mailed to security analysts, investment houses, insurance companies and others. These Annual Statistical Reports contain considerable financial and operating data collected by me or under my supervision and the form of this report was determined in the past by representatives of the electric and gas utilities working with security analysts and others. These reports supply information of the division of our business between electric and gas which has not yet been put in evidence in this proceeding.

Mr. Dunn: I offer these two reports as Respondent's Exhibits No. 76 for 1958 and No. 77 for 1959.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: Received.

(Respondent's Exhibits No. 76 for 1958 and No. 77 for 1959 were marked for identification and received in evidence.)

By Mr. Dunn:

Q. I give you now two white-covered reports captioned New England Electric System—Required Financial Statements and Schedules for Annual Report Pursuant to Section 13 of the Securities Exchange Act of 1934—one for 1958 and the other for 1959. Will you identify and describe these? [1043] A. These are copies of reports filed with the Securities and Exchange Commission per Section 13 of the Securities Act of 1934, but they were actually filed as Supplement A-2 of our Form U5S under the Public Utility Holding Company Act. These are annual reports required by the Commission of companies that have issued securities to the public. They include corporate and consolidated income statements and balance sheets for both 1958 and 1959, the certificate of independent public ac-

countants and supplementary schedules and explanatory notes to the financial statements. They were prepared by me or under my supervision.

Mr. Dunn: I offer these two reports as Respondent's Exhibit No. 78 for 1958 and No. 79 for 1959.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: Received.

(Respondent's Exhibits No. 78 for 1958 and No. 79 for 1959 were marked for identification and received in evidence.)

By Mr. Dunn:

Q. I next hand you two brown covered reports which include consolidating financial statements for the years ended December 31, 1958 and 1959 and ask you to identify and describe them. A. These are copies of reports filed with the Securities and Exchange Commission as Supplement A-1 of the Form U5S. They [1044] contain consolidating financial statements for the years 1958 and 1959 and give details of the consolidated income statements and balance sheets of NEES and its subsidiaries. These are photo copies of work papers of Lybrand, Ross Bros. & Montgomery prepared by them in the course of their audit for purpose of certifying our consolidated financial statements for the respective years.

Mr. Dunn: I offer these reports as Respondents' Exhibits No. 80 for 1958 and No. 81 for 1959.

Mr. Nowlin: No objection.

Hearing Officer Ewell: Received.

(Respondent's Exhibits No. 80 for 1958 and No. 81 for 1959 were marked for identification and received in evidence.)

By Mr. Dunn:

Q. I now hand you two reports, one captioned New England Electric System Massachusetts Gas Subsidiaries Consolidated—Income Statements for the year ended De-

ember 31, 1958 and Balance Sheets at December 31, 1958 and the other the same except that the Income Statements are for the year 1959 while the Balance Sheets are at January 1, 1960. Will you please identify and describe them? A. These two reports, one for the year 1958 and one for the year 1959, include Income Statements and Balance Sheets for [1045] each of the gas subsidiaries and on a consolidated basis and agree with what is included in the consolidating statements referred to in the previous exhibit. These reports bring together in one exhibit the income statements and balance sheets of our gas subsidiaries as included in the NEES consolidated financial statements.

Q. Were these two reports prepared by you or under your supervision and are they true and accurate to the best of your knowledge and information? A. They were and they are.

Mr. Dunn: I offer these reports as Respondent's Exhibits No. 82 for 1958 and No. 83 for 1959.

Mr. Nowlin: No objection.

Hearing Officer Ewell: Received.

(Respondent's Exhibits No. 82 for 1958 and No. 83 for 1959 were marked for identification and received in evidence.)

May I interrupt to ask about these A-2 supplements. Have they been introduced?

Mr. Dunn: Yes, sir. No. 78 and 79.

By Mr. Dunn:

Q. I hand you a statement which is captioned New England Electric System re Investment in Gas Companies as at January 1, 1960 and ask you to identify and describe it. [1046] A. This statement, with the caption as indicated by you, gives information as to the investment by NEES in the gas subsidiaries as well as return data. The statement shows the investment in each gas subsidiary

and the total investment in gas subsidiaries, as shown by the books of NEES at January 1, 1960, and also the underlying book value of the investment as shown by the books of the gas subsidiaries. As a matter of interest the book investment of NEES in gas subsidiaries has increased about 10 million dollars since 1951, of which about 5.5 million is the book investment in Lynn and the balance of 4.5 million is increased investment in the other gas subsidiaries. I might add we use January 1, 1960 as that was the effective date of the separation of Lynn Gas and Electric Company, i.e., Lynn Gas Company's operations started as of that date. The statement also shows the return on the investment both on an earnings and dividends and interest basis as explained in the column caption and footnote. The column on the far right shows the excess of underlying book value of the investment in these gas companies at acquisition date over the amount of the investment as shown by the books of NEES.

This points up the fact that NEES carries the investment in its gas subsidiaries at about \$5,110,000 less than the underlying book value at the date of acquisition. This means that if divorcement of the gas subsidiaries were required it would increase the NEES balance sheet account for [1047] investment in common shares of subsidiaries in excess of relative net assets by the \$5,110,000, which presumably would also require an increase in the general reserve relating to investments. This is, of course, of major importance to NEES.

Q. Is this statement re investment in gas companies true and accurate, to the best of your knowledge and information? A. It is.

Mr. Dunn: I offer this report as Respondent's Exhibit No. 84.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: Received.

(Respondent's Exhibit No. 84 was marked for identification and received in evidence.)

By Mr. Dunn:

Q. I next hand you a statement which gives the consolidated capitalization of NEES at January 1, 1960 and a division of this to show the gas subsidiaries with the balance representing NEES and other subsidiaries and ask you to identify and describe it. A. This statement which I had prepared is designed to give recent information about the consolidated capitalization of NEES and its subsidiaries, the capitalization of the gas subsidiaries and the balance which represents NEES and the electric subsidiaries, is captioned New England Electric System and Subsidiaries Consolidated Capitalization and Ratios. [1048] It indicates the effect on the NEES consolidated capitalization of deducting the capitalization of the gas subsidiaries. I do want to point out that no effect has been given to the resulting consolidated capitalization of NEES and its electric subsidiaries for the consideration that would be received by NEES if divorcement of the gas companies became necessary. However, I believe any such proceeds would be invested in electric plant, or used to pay short-term debt, and would not be used to retire permanent or long-term capitalization.

Q. Is the statement true and accurate to the best of your knowledge and information? A. It is.

Mr. Dunn: I offer this statement as Respondent's Exhibit 85.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: Received.

(Respondent's Exhibit No. 85 was marked for identification and received in evidence.)

By Mr. Dunn:

Q. I now hand you a statement which evidently shows

the gas subsidiaries and gas properties that have been sold by NEES since 1947 and ask you to identify and describe it. A. This statement prepared under my supervision gives a [1049] list of the gas companies or properties that have been disposed of by NEES and its subsidiaries since 1947 when the reorganization plan of NEES was made effective. It indicates that several dispositions have been made of small gas companies or properties which it was not considered economical to retain in the NEES picture. I believe this exhibit speaks for itself in demonstrating that the NEES management has been alert to the desirability of disposing of gas properties that it did not consider properly belonged as a part of the NEES System.

Q. Is the statement true and accurate to the best of your knowledge and information? A. It is.

Mr. Dunn: I offer this statement as Respondent's Exhibit No. 86.

Mr. Nowlin: What is the specific purpose of this exhibit?

Mr. Dunn: To show the disposition and adjustments of gas properties since 1947. It is more for information than for any specific purpose.

Mr. Nowlin: I have no objection.

Hearing Examiner Ewell: Received.

(Respondent's Exhibit No. 86 was marked for identification and received in evidence.)

By Mr. Dunn:

[1050] Q. I next hand you a statement which includes Estimated Income Statements for the year 1960 of the present NEES Gas subsidiaries and ask you to identify and describe it. A. This statement, prepared under my supervision, includes an estimated income statement for the year 1960 of each of the present gas subsidiaries as a part of the NEES system and an estimated consolidated income statement of these subsidiaries for that year. It is presented particularly to show the estimated effect of the

several changes that have occurred in recent months to adversely affect these gas subsidiaries. As indicated by the statement, we estimate that the consolidated net income of our gas subsidiaries for the year 1960 will be \$1,615,900, which compares with \$2,368,800 for the year 1959. Most of this expected drop in net income is due to higher wage and fringe benefit costs, higher price of gas purchased, the need for manufacturing peak gas which costs more than we had to pay for peak gas purchased in the early months last year, and some non-recurring Federal income tax credits last year due to settlement of several prior years' taxes. This estimate points up the problem the gas companies would have if they lost the economies now received by them as a part of the NEES System.

Q. Is this statement true and accurate to the best of your knowledge and information? A. It is.

[1051] Mr. Dunn: I offer this statement as Respondent's Exhibit No. 87.

Mr. Nowlin: No objection.

Hearing Examiner Ewell: Received.

(Respondent's Exhibit No. 87 was marked for identification and received in evidence.)

By Mr. Dunn:

Q. Mr. Hanson, you have heard Mr. Webster testify as to the change in the organization and conduct of business of New England Power Service Company as of January 1, 1960. Have you estimated the dollar effect of this change on the various companies in the NEES holding company system, assuming the change had been in effect during the calendar year 1958?

Mr. Nowlin: Will you read that question please?

(Question read by reporter)

Mr. Nowlin: I am going to object to that question. I ran across a statement in the Cities Service case, which is as follows: "Further it must be noted that to accept an es-

timate of present benefits from services rendered by system service companies as a measure of economies which would be lost as a result of independence requires us to assume that financial severance will cast operating units completely adrift, incapable of providing themselves with comparable benefits as cheaply either directly or through mutual arrangements with other operating [1052] units. We cannot make that assumption."

That is page 982, 15 SEC, Cities Service Companies.

Mr. Dunn: Mr. Examiner, this line of questions and answers here are designed to show the effect that the change in the organization of the service company will have on each of the operating companies of the NEES System. This line of testimony is not going to go to the effect of the loss of the Service Company, but for the purpose of showing the dollar effect on the operating company itself and it seems to me it is entirely relevant.

Mr. Nowlin: I do not think the impact on electric companies has any relevancy and you overruled my objection after I cited the Commission's case and I would like a continuing objection to any evidence on the impact of the severance.

Mr. Dunn: It will show the effect on both gas and electric. It will show you have to make an adjustment of the figures shown in the Ebasco report in order to get a true picture.

Mr. Nowlin: As I understand the language I just read the Commission said they do not regard the losses either one way or the other as part of substantial economies as it appears in the statute. They cannot assume that these companies cannot get comparable services just as cheap from some other source.

Mr. Dunn: We are here trying to present a measure [1053] of the loss of economies to the gas companies and also the electric companies during the test year. We think

it is necessary to take a picture of the entire situation and make any major adjustments necessary to give a true picture.

Hearing Examiner Ewell: Well, I am not so convinced that this is material because, as the decision points out, it assumes that these economies could not be effected in some other manner. I do not think that necessarily follows.

Mr. Dunn: Mr. Examiner, let's take the gas company themselves, for a moment. They now have, and back in 1958—the test year, they had a much smaller executive and administrative staff than would have been necessary if they had not been part of the NEES System.

Now, in order to show the difference between that organization and how they would be without the NEES System we have to consider the Executive and Managerial Staff, both before and after.

Of course, the reason that they have a small staff now is because they can draw on the service company and the central organization. It is a measure of all this that we are putting in evidence.

Hearing Examiner Ewell: Well, I will take it subject to a motion to strike later on. This whole question I have got to investigate a little further before I can make a final ruling on it.

[1054] Mr. Nowlin: Exception.

Mr. Dunn: Do you wish the question read?

The Witness: No. The answer to the question is yes. During the summer of 1959, we were discussing with the staff of the Securities and Exchange Commission the recommended change in the Service Company organization and conduct of business and on August 20, 1959, I wrote to Mr. Huson, the Chief of Office of Research and Service Company Regulation of the Commission, with respect to the estimated dollar effect on the NEES companies. The information I gave him will answer your question. Of the

\$924,234 for expenses of NEES alone during 1958 I indicated that about \$600,000 was for salaries and related expenses such as fringe benefits, rents and traveling. I estimated that, if the change in the Service Company organization and conduct of business has been in effect during 1958, 30 per cent to 40 per cent of this \$600,000 would have been chargeable to NEES and the balance would have been chargeable to the operating subsidiaries. The estimated amount chargeable to the operating subsidiaries would have been in the \$350,000 to \$425,000 range and I included in the letter a table setting forth an allocation of these amounts to each of the operating companies on the basis of their weighted gross revenues.

Q. I show you a copy of a letter addressed to Mr. Huson, dated August 20, 1959, and ask if this is the letter to which [1055] you have just referred? A. It is.

Q. Do you still consider the information and estimates given in that letter correct? A. Yes, on the basis stated in the letter.

Mr. Dunn: I offer this copy of letter as Respondent's Exhibit No. 88.

Mr. Nowlin: I will have to object to it on the same grounds I did to the previous question.

Hearing Examiner Ewell: I am going to reserve the ruling on this for the time being.

By Mr. Dunn:

Q. Mr. Hanson, are these estimates reflective of the change in the organization and conduct of business of the Service Company as finally approved by the Commission on December 30, 1959? A. Yes, I think they are. During the summer of 1959 we had been thinking that NEES would continue to pay for all work which related to supervision of the holding company system and the review of the activities of the operating companies and their officials and staffs. However, it was subsequently felt that the cost of

management is a recognized part of the cost of utility service and that the operating companies should bear its reasonable cost. Accordingly, the first amendment to our application as filed in November 1959 was on a slightly different [1056] basis than the proposal being considered in August 1959 when I wrote to Mr. Huson.

Hearing Examiner Ewell: I am wondering if this would not be a good time for a little break? We will take a little recess.

(Brief recess)

Hearing Examiner Ewell: Are you ready to resume, please?

During the recess I had the opportunity to read the Louisiana Public Service Commission case and I have looked over some of the citations from these other cases. I have not had an opportunity to go into it exhaustively, but the Louisiana case seems quite persuasive, and it came out in 1956. And it seems to me, it, at least, is of sufficiency to raise a reasonable doubt on this question.

Mr. Nowlin: You knew the court was reversed subsequently?

Hearing Examiner Ewell: You did not tell me that, no.

Mr. Vorenberg: The reversal was on a completely unrelated subject, Your Honor. It was purely a procedural issue.

Hearing Examiner Ewell: I would like to see that also.

Mr. Vorenberg: We have that here.

Hearing Examiner Ewell: This opinion is not very long. I would like to take a few minutes and look it over before [1057] we proceed on the matter.

Mr. Nowlin: Surely, I have not read it.

Where will you state on the record whatever happened?

Mr. Vorenberg: The situation was—First, the citation, Your Honor?

Hearing Examiner Ewell: 353 U. S. at page 368. It is a 1957 case.

Mr. Vorenberg: As I read the case the reversal is based solely on the fact that it was not error for the Commission not to reopen the proceeding on an unrelated issue. It had nothing to do with the consideration of the electric system's loss of economies, and I think that appears from a quick or detailed reading of the case that this issue was not on appeal before the court and was not decided by the court.

Mr. Nowlin: Then, it becomes a matter of argument which is the better case: the Philadelphia case or the Louisiana case?

Hearing Examiner Ewell: I would like to see what this case says anyhow before I proceed with the matter.

(Brief recess.)

Hearing Examiner Ewell: All right, after reading this Louisiana case in Volume 353 to which reference has been made, I concur in what the Associate Counsel here for the Respondent said, that the reversal was on a ground which did not go to the merits of the question before the Circuit Court except on the question of whether or not its order refusing [1058] to reopen the proceedings was reviewable. I might read some of that to make it clear. On page 371 the Supreme Court opinion in decision says, "The conclusion of the Court of Appeals that the order of September 3, 1955 was subject to judicial review was rested upon the last two sentences of section 11(B) of the Act, 49 Statutes 820, 15 U.S.C. Section 79(k) (B) reading, 'The Commission may order, revoke or modify any order previously made under this subsection if after notice and opportunity for hearing, it finds that the conditions upon which the order was predicated did not exist. Any order made under this subsection shall be subject to judicial review as provided in Section 79x of this title.' It held that the Securities and Exchange Commission's order of September 13, 1955 deny-

ing the Louisiana Commission's petition to re-open the divestment proceeding was an order specifically made subject to judicial review by the quoted language.

"We take a different view. We hold that the order made judicially reviewable by the quoted language are the direct orders mentioned in, and authorized by subsection (B) of Section 11 of the Act, and orders which may revoke or modify any such order previously made under this subsection, and that the quoted language does not include an order, merely denying a petition to reopen Section 11(B) proceedings. It follows that the Securities and Exchange Commission's order of September 13, 1955, denying the Louisiana Commission's petition to reopen the [1059] divestment proceeding was not an order which was subject to judicial review, and the judgment of the Court of Appeals must accordingly be reversed. It is so ordered."

From the language quoted it is quite clear that the Supreme Court did not reverse on the merits of the question that was before the Circuit Court of Appeals on this question regarding the loss of economies to the parent system. So, I think I will read an excerpt from that opinion, subparagraph 5, page 172, volume 235 Fed 2d the following appears: "Giving to the language of Section 79(k)(B) the meaning normally attributed to the words used, we think it quite clear that if, in fact, there is a loss of substantial economies either to the separated utility or to the parent company, then the proviso in Clause A is satisfied, for in such event it is clear that 'each of such additional systems (here the gas system) could not be operated * * * without the loss of substantial economies (to the parent company) which can be secured by the retention of control by such holding company of such system.' Since the term 'loss of substantial economies' is not expressly restricted in the statute to the economies relating to the operation of additional companies, but is in terms broad enough to include

the loss of substantial economies to the holding company as well, it would require judicial legislation for the court to cut it down as contended for by the Securities and Exchange Commission.

[1060] "Neither the legislative history, if we are to consider that, nor the one court decision, relied on by the Respondent discussed this present precise point. We cannot permit our conclusion as to the correct construction of the Act to be overborne by discussion by another court of another feature of the Act from which a contrary construction can, at most, only be inferred. This is too important a part of the section to be interpreted by such method. Furthermore, while we recognize the merit of the Respondent's contention that the interpretation placed on a law by the agency enforcing it, is persuasive, no one will contend that it is not, after all, the duty of the court to construe the acts of Congress, even if such construction differs from the long-accepted administrative policy.

"We do not make any finding here contrary to those arrived at by the Securities and Exchange Commission. We do decide that in making its findings on the crucial questions of loss of substantial economies, the Securities and Exchange Commission refused to give weight to the important fact, which, if as alleged by Petitioner would have presented an entirely different picture."

I think the sum of it all is that it at least raises a reasonable doubt on the question and, as I said before, the Commission may want to have another look at it, so, I am going to rule in favor of letting it come in.

[1061] Mr. Nowlin: Exception to it.

Hearing Officer Ewell: You may have an exception.

Mr. Dunn: Mr. Hanson, I earlier inquired of you with respect to the adjustment shown in the Ebasco report in the tax area. I ask you again, are these adjustments properly shown in the Ebasco report?

The Witness: In my opinion, the tax adjustments as reflected in the Ebasco report are accurately shown.

By Mr. Dunn:

Q. Mr. Hanson, while we are on the subject of taxes, would you tell us more about the tax adjustments and the effect of severance upon the allocation of the consolidated tax savings which the NEES gas subsidiaries now realize?

A. An important phase of our work in connection with the Ebasco study was to make tax computations to determine the effect of the increased operating expenses and other adjustments on net income of the gas and electric subsidiaries. The Federal income tax on corporations includes the normal tax of 30 per cent on all taxable income with a surtax of 22 per cent on the amount of taxable income exceeding \$25,000. As I have heretofore stated, NEES files a consolidated Federal income tax return which includes all of its subsidiaries and the consolidated tax is distributed to the participating companies on the percentage of taxable income to consolidated taxable income basis as prescribed by this commission.

[1062] Our gas subsidiaries save from \$150,000 to \$200,000 a year because of this participation and this saving would be lost to these gas companies if they were independent and would be shifted to the remaining electric companies as additional tax savings. I mention all this to indicate that the computation of taxes is not a simple procedure. Though Ebasco had one of their tax experts working with our men on tax adjustments, because of our organization's familiarity with the situation, we took primary responsibility for the computation.

Mr. Dunn: Mr. Examiner, I request at this time I renew my request that Exhibit 88 be received in evidence, that is the letter from the New England Electric System to Mr. Huson of the Securities and Exchange Commission.

Hearing Examiner Ewell: I have not had time to read it yet, so I am going to pass it.

Mr. Dunn: Very well.

Mr. Nowlin: Mr. Examiner, have you ruled or decided to rule on my objection to the tax information coming into the record.

Hearing Examiner Ewell: I think I will make the same ruling, it may stand on a somewhat weaker footing than the other, but I think it is in the same general area. I will make the same ruling and let it in.

Mr. Nowlin: Exception.

By Mr. Dunn:

[1063] Q. Mr. Hanson, we were discussing the change in organization and the conduct of the service company and referred to the letter which was marked as Respondent's Exhibit 88, to what extent, then, should the figures in your August 20, 1959 letter be revised to reflect the change of organization and conduct of business of the Service Company as approved by the Commission on December 30, 1959? A. I don't believe it is necessary to make any change. My letter of August 20, 1959 estimated that from 30 per cent to 40 per cent of \$600,000 would be chargeable to NEES and the balance of from 60 per cent to 70 per cent to subsidiaries. For the first quarter of 1960 the actual charges to NEES for the NEPSCO personnel who were formerly on the NEES payroll equaled 29.5 per cent while charges to subsidiaries were 70.5 per cent and I know of no reason why there should be major changes in subsequent periods. Accordingly, we can use the figures given in my letter which reflect the 30 per cent - 70 per cent split of said \$600,000.

Q. What effect, if any, does this change in the organization and conduct of business of the New England Power Service Company have on the figures which have been produced in this proceeding to show the dollar effect of the

separation of the gas properties from the NEES holding company system? A. It would have some effect. With reference to the gas companies, they would have been charged, on the basis of [1064] the exhibit which has just been offered in evidence, and assuming that 70 per cent of the 1958 NEES salaries and expenses were chargeable to operating companies, an additional amount of \$66,897, and the electric companies would have been charged an additional amount of \$358,103. As to the figures which have been presented showing the effect of severance on the gas properties, the increase in operating expenses of \$1,385,800 would be reduced by \$66,897 if this expense had been charged to the gas companies in 1958 and consequently the reduction of \$957,600 in gross income before interest and dividends would become a reduction of \$925,500. These adjustments are necessary to reflect what the situation would have been had the gas companies been paying for the services which they obtained during 1958 without cost.

Turning to the figures showing the effect on the fourteen electric companies caused by severance of the gas business, in my opinion the additional charge of \$358,103 to said companies, had the Service Company change of organization and conduct of business been in effect in 1958, would not be affected by the separation of the gas business.

This is because the electric companies would not be staffed with additional executive and administrative personnel and would continue to draw on the System's central organization. However, to the extent that the Service Company executive and administrative personnel is not reduced to offset the loss of \$66,897 which would have been charged to the gas companies [1065] during the test year period, there would be that amount of additional cost to be borne by the remaining electric companies and such additional cost would be a result of the separation and divestment of the gas business. If the full \$66,897 is added to

the increased operating expenses shown in the Ebasco report for electric companies upon separation of the gas companies, the amount of increased operating expenses for the electric companies will be \$730,300 while the reduction in the net income of the electric companies would be \$433,800 and, after giving effect to the additional \$249,300 consolidated Federal income tax saving that would be received by the electric companies because of divestment of the gas companies, would be \$184,500.

Mr. Nowlin: I am going to move to strike the answer to the last question on the grounds that I quoted from the Cities Service opinion to the Commission.

Hearing Examiner Ewell: You mean about the taxes?

Mr. Nowlin: Well, the tax effect you have ruled on. It is the effect of the losses to the service company and the increased cost to the gas companies by virtue of the severance.

Hearing Examiner Ewell: As far as the tax segment, I wanted to add to what I said the reason I ruled in favor of letting that come in was the statement by Counsel for the Public Service Commission that it is a matter given weight in rate proceedings. It seems it has a direct bearing on the [1066] public interest question, but on this other matter about this service company I am more in doubt about that.

Mr. Nowlin: I still want to reserve on that, I mean you still want to reserve your ruling.

Hearing Examiner Ewell: Just how much of the answer do you want stricken?

Mr. Nowlin: I think the whole answer is so interwoven with statistics that the whole answer should be stricken and the question related if he wants to elicit some part of it.

Mr. Dunn: I am apparently not quite clear just what

his objection is here. Perhaps it would be better if he were to restate it.

Mr. Nowlin: I read in the quotation before. The Commission said, "Further it must be noted that to accept an estimate of present benefit from services rendered by System Service Companies as a measure of economies which would be lost as a result of independence, requires us to assume that financial severance will cast operating units completely adrift, incapable of providing themselves with comparable benefits as cheaply either directly or through mutual arrangements with other operating units. We cannot make that assumption."

The computations read into the record were showing the losses to the gas company by virtue of the separation and the loss of the service company servicing them.

[1067] Mr. Dunn: Quite to the contrary, the question does not reach that point. The question and answer relate to the costs of the executives which were put on the NEPSCO payroll and how much of that cost would have been charged to each of the operating companies in 1958 had this rearrangement been in effect during that test year, and it does end up with an adjustment of the figures shown in the Ebasco report as a result of that allocation.

We are not in this answer though trying to show any loss of economies resulting from the severance of the gas companies from the service company.

Mr. Nowlin: I do not want to foreclose you from putting in any relevant evidence. Maybe I misunderstood the answer. It seemed it was interwoven with calculations on this particular point.

Hearing Examiner Ewell: I made that inference myself as I heard it, but in view of your statement that it is not the purpose of it, that seems to eliminate the basis of the objection because the basis of it is loss of economy.

Mr. Nowlin: As I understood the question, I thought

it was interwoven with a lot of assumptions that bore on this particular point. If it did not I withdraw my objection.

Hearing Examiner Ewell: Well, where are we now?

Mr. Nowlin: I am relying on counsel. I have not the questions before me and it is hard to sit here and listen [1068] with a long one here.

Hearing Examiner Ewell: Why not have it reread?

Mr. Dunn: We can do it that way or if it would satisfy Mr. Nowlin, we suggest he read the record when it becomes available and at that time we would be glad to consider a motion to strike if he still thinks it is not pertinent.

Mr. Nowlin: That puts counsel at a considerable disadvantage to go back over and see what I am going to object to.

Hearing Examiner Ewell: Yes, I am inclined to agree with that. I think as far as possible I would like to dispose of these matters as we go along because of the size of these records. I suggest that we read that question and answer again and we will all get another look at it.

Can Counsel go back to the question and the answer?

Mr. Dunn: You would like us to state it again?

Hearing Examiner Ewell: No, I think it would take up more time and we might as well have it read.

Will you read the question and answer?

(Reporter read question and answer)

Mr. Dunn: Mr. Hearing Examiner, if I may, I would like to point out that we are talking here about the allocation of a substantial amount of money, \$425,000 among the operating companies in the system. These are actual dollar figures that we are talking about. I think it is material that the record [1069] should have a full disclosure and discussion of it. I still think that the citation that Mr. Nowlin has made is not pertinent to this question and answer.

Hearing Examiner Ewell: That is what I would like to hear.

Mr. Dunn: Well, I do not think it is pertinent.

Hearing Examiner Ewell: Why?

Mr. Dunn: Because I am talking here about not the dollars arising from severance of the gas companies from NEES System. I am talking principally about the dollars, the \$425,000 which these companies will have to bear as a result of the service company reorganization.

Mr. Ewell: You mean the gas companies would have to bear that?

Mr. Dunn: The gas companies bear their portion which is \$66,897. The other goes to the electric companies. This is getting into the record basic figures to be used in the measuring of loss of economies when we come to later phases of the case.

I would like to just briefly refer to the quotation from the Cities Service case. It seems to me that that is an indication that the Commission felt the company did not put in specific enough evidence on the loss of economies arising from severance from the service company. It indicates that they had estimates and that was not sufficiently specific to [1070] be given weight by the Commission. Here we are arguing with the figures.

Hearing Examiner Ewell: Again I will have to examine that case more carefully before I rule on it, and I would like to pass this for the time being. If you can go into something else we are nearing the lunch hour and I can do it during the lunch hour and we will rule when we reconvene.

Mr. Dunn: All right.

By Mr. Dunn:

Q. Mr. Hanson, have you considered the effect that the separation of the gas companies from the NEES System would have on the security holders of the gas companies?

A. Yes. For the test year 1958, taking into consideration the figures shown in the Ebasco report, reduced by the

net effect of the \$66,897 of additional billing by the service company, the consolidated net income of the gas companies would have decreased about 45%. For 1959, on the same basis, the consolidated net income of the gas companies would have decreased about 38 per cent and from 1960 on the same basis, the estimated consolidated net income for the gas companies would decrease about 55 per cent. To the extent that net income losses are not recovered by increased earnings from rate increases or otherwise, the stockholders would be seriously affected and the debt holders would suffer in reduced coverages of their interest requirements and lower ratings for their bonds which would make it very difficult to do financing on a reasonable basis.

[1071] Q. Mr. Hanson, in your opinion as the senior financial and accounting officer of the NEES System, are the operations of the gas utility companies confined to a single area or region within Massachusetts which is not so large as to impair (considering the state of the art and the area of the region affected) the advantages of localized management, efficient operation and the effectiveness of the regulation? A. I am of such opinion.

Mr. Nowlin: I am going to object. It is the statutory language. It requires application of legal terms and is the words that appear in the statute. I do not think Mr. Hanson is qualified to answer and if he did it would be purely self-serving.

Hearing Examiner Ewell: He has been in the business for many years. How long?

The Witness: Forty-two.

Mr. Nowlin: He has not been interpreting the Act for 42 years.

Mr. Dunn: As I stated yesterday we consider the statutory standards to call for opinion of factual matters and

feel that a qualified senior officer of the system who has long experience is fully qualified to give an opinion on these factual matters.

Hearing Examiner Ewell: Mr. Hanson, you have testified in a good many of these proceedings, haven't you?

[1072] The Witness: I have.

Hearing Examiner Ewell: You have lived with these problems for many years, haven't you?

The Witness: I have.

Hearing Examiner Ewell: I think it is reasonable.

Mr. Nowlin: I have the highest personal regard for Mr. Hanson and his abilities. I do not think he is competent to testify in this field, however.

Hearing Examiner Ewell: I think it goes to the weight. I think he is an expert and he is entitled to express an opinion, and I think he is entitled to some consideration too. So, I am going to allow it. The objection is overruled.

Mr. Nowlin: Exception.

Hearing Examiner Ewell: Will you read the last question, please?

(Question read by reporter.)

The Witness: In my opinion, they are.

By Mr. Dunn:

Q. Are you further of the opinion that the gas utility companies of the system are so located and related that substantial economies are effectuated by being operated as a single coordinated system? A. I am.

Mr. Nowlin: Same objection.

Hearing Examiner Ewell: Same ruling.

[1073] Mr. Nowlin: You wouldn't expect Mr. Hanson to answer no?

By Mr. Dunn:

Q. Are you further of the opinion that the continued combination of the electric system and the gas system of the present NEES System under the control of NEES is not so large considering the state of the art and the area

of the region affected as to impair the advantages of localized management, efficient operation or the effectiveness of regulation?

Mr. Nowlin: Objection.

Hearing Examiner Ewell: You may answer. Overruled.

The Witness: I am.

By Mr. Dunn:

Q. Finally, are you of the opinion that the gas companies of the NEES System cannot be operated as a system independent of the electric utility system of the NEES System without the loss of substantial economies which may be secured by retention of control by NEES?

Mr. Nowlin: Objection.

Hearing Examiner Ewell: Same ruling.

The Witness: I am.

Mr. Dunn: We request that Mr. Hanson be excused, subject to recall.

Mr. Nowlin: I would like to ask a couple of questions.

[1074] Hearing Examiner Ewell: All right.

Cross-Examination

By Mr. Nowlin:

XQ. Was your response based on the assumption treating these costs collectively or separately? A. Both.

XQ. Have you had any information yet on the collective operation of the system on which to base that conclusion?

A. Yes.

XQ. Is that in the record? A. I do not believe so, as yet.

XQ. Directing your attention to Exhibit 87, which is the estimated income for the year ending December 31, 1960, are there any pending rate cases with respect to any of these subsidiary companies? A. There are not.

XQ. So that there would not be any changes because of pending rate cases? A. No changes of rates are assumed in this statement.

XQ. I would like to inquire as to whether or not the Ebasco Report, the study of expenses of the service company, does that give effect to the reorganization that it does not, and occurred around December 30, 1959? If the figures, which that was the purpose of my giving the figures, which indicate the effect of that.

[1075] Mr. Nowlin: I see. That is all I have at the present time.

(Witness excused)

(Discussion off the record.)

Hearing Examiner Ewell: We will recess for lunch until 1:45 p. m.

(Whereupon, at 12:15 o'clock p.m. the hearing recessed, to reconvene at 1:45 o'clock of the same day.)

[1076]

AFTERNOON SESSION

1:40 p.m.

Hearing Examiner Ewell: Gentlemen, are you ready?

Mr. Nowlin: Yes, sir.

Exam. Ewell: Perhaps we ought to take up this question again about the loss of economies due to the severance of the service company.

Counsel for the Division has cited the Utilities Service case appearing in Volume 15 of the Commission's Decisions, page 962 et seq. It is stated in this opinion which is dated May 5, 1944, and the language which Counsel quoted is pretty clear. The Commission evidently considered that the loss of economies due to the severance from the Service Company was not of probative value. However, the Commission did in that case also reject the ground that it was not of, apparently even accepting the figures at face value, they were not of sufficient relative importance. It states here on page 981:

"Those savings are estimated at \$96,181 annually. Were we to accept that figure as fully accurate and relevant we could not find that substantial economies would be lost for the claimed savings are only 1.1 per cent of the 1941 gross operating revenues of Arkansas Gas which were \$8,462,759 and only 2.7 per cent of the 1941 operating expenses of \$3,463,253 not including taxes and appropriations for depreciation and depletion and only 1.5 per cent of total expenses but the figure cannot be accepted as faithfully representing a savings [1077] which will be effected when Cities has complied with Section 11-B-1."

And that phrase is italicized. "The argument is predicated upon retention of—" and then somewhat further follows the quotation that Mr. Nowlin, I think, has already referred to in the record, but just because it is to fill out the thought I might as well read it. It is only one sentence. I will read it. "Further, it must be noted that to accept an estimate of present benefit from services rendered by a system service companies—" and you gentlemen are familiar with the rest of the language from Mr. Nowlin's quote this morning, which ends with "We cannot make that assumption."

That language is pretty clear, gentlemen. Of course, it does not say that the evidence should be excluded, but it certainly indicates that the Commission felt that it was not entitled to weight. Now, I would like to know if counsel for the Respondent can put it in any light that this rather clear language seems to put it in if they can put it in any other light.

Mr. Dunn: If it please Your Honor, I have not had a chance to examine the SEC decisions on this point. I am aware of an earlier Cities Service decision in 14 SEC, page 28, and apparently somewhere around pages 46 to 48 they again were stating that these alleged losses of economies upon severance of the companies from a Service company

should not be given [1078] great weight, but they went on and said apparently accepting the estimate and so forth, the estimates are not substantial. Again, an indication as you indicated that they accepted the testimony, but then considered it on the probative basis.

Hearing Examiner Ewell: What would you have to say on the question of the relationship of the results to the overall picture?

In other words, the Commission pointed out it was only one per cent of the expenses and income. Now, using that as a criterion how would your figures look?

Mr. Dunn: I think it might be wise to state at this time that each case should be considered on its own merits. Each system has a different type of service company. There are different amounts of dollars involved. We feel that to give a true picture of the effect of separation we must first show all of the losses that will result if these companies go out on their own. We will then try to show what of those losses might be salvaged by putting the companies together on one basis, or another. So, it will, in the end, we will have evidence in the record that will show the materiality of the effect of the severance not only from the service company but from all other portions of the NEES system.

Hearing Examiner Ewell: That would have been my next question, but you did not answer the one I asked. I do not think you answered the one I asked. I asked you how your figures would look in respect to the criterion or criteria set up in this decision [1079] that I read from the language that I read where the Commission pointed out that even accepting the figures at face value, they were relatively unimportant because they bore such a small relationship to the totals involved, expenses and income.

Mr. Dunn: I do not have the percentages at my fingertips, but we are showing that the losses of operating expenses or the increase of operating expenses to the gas

companies would be around a million, five-hundred thousand dollars.

That the increase in operating expenses to the electric companies—

Hearing Examiner Ewell: I think that might be a point that would be important. Perhaps it was not reasonable to ask you to do it in just a mental calculation, but maybe it would be worth taking the time to work it out in a way that would be clear for the record.

Mr. Dunn: We are planning to get this type of evidence into the record. In fact, as I recall, Mr. Hanson's answer this morning the net income of the gas companies before interest and dividends would be reduced 47 per cent as a result of this severance.

[1080] Hearing Examiner Ewell: Well, that sounds very substantial and maybe this would put this class of evidence in a little bit different light.

Mr. Nowlin: You do not mean reduced to 47 percent by virtue of the losses to the service company?

Mr. Dunn: No. The whole effect of the severance.

Hearing Examiner Ewell: How long would it take you to answer the question that I raised using this formula that is in this decision here that I read? In other words, take your loss of economies and set it up in the same way in relationship of the gross revenues, and the operating expenses.

Mr. Dunn: Well, I believe those cases are talking about total losses and not just losses resulting from severances of the service company alone. This is what I would like the privilege of a more careful examination of the point.

Hearing Examiner Ewell: The case says "It is argued that the savings effected through the use of gas"—

Mr. Dunn: I think some of these cases are some that—some of these cases being referred to have much simpler issues and factual problems than we have in this case.

Hearing Examiner Ewell: Is it not a comparable figure with your figure, for instance in the above case doesn't the \$98,000 represent one of the figures read off by Mr. Hanson?

Mr. Dunn: We are giving the figures on the basis of an [1081] entire separation from the NEES system. I think those cases relate to the loss of Service Company. For example, in this case in 14 SEC they are discussing an increase of \$76,000 in round figures in administrative expenses to replace the loss of services from a service company, and apparently that was the only loss of economies alleged in the whole case, so it would pinpoint it.

Hearing Officer Ewell: Yes, but I understood Mr. Nowlin's objection to be based on the fact that your figures included this and he said it ought to be stricken on the authority of this case, which held that they were not of probative value.

Mr. Nowlin: What is the dollar amount involved in service company loss?

Mr. Dunn: I do not know that we have figures isolated for that loss alone. We have developed these figures on the basis of total effect of severance.

Mr. Nowlin: You know the total amount involved. Don't you know the component parts of this total amount.

Mr. Dunn: Maybe if we took a specific example such as an executive staffing of an independent gas company, you have to increase the staff and that will supplement not only the existing staff, but the services from the gas division headquarters and from the Service Company and from the advice that they have had from NEES. We have not tried to break those figures down between those given [1082] categories that I have mentioned. It would be quite a task and I am not sure that you could get any meaningful allocations.

Mr. Nowlin: Apparently these cases did give a definite

figure that it could, where the company would be affected by a certain dollar amount from the loss of a Service Company. I think you people should do the same thing.

Mr. Dunn: May we have a couple of minutes recess to consider this?

Hearing Examiner Ewell: Yes, I think I might say that Mr. Hanson's answer perhaps ought to be read back again because he gave a lot of figures there and maybe I misunderstood them, but it seemed to me he assigned certain dollar amounts there to the loss of economies from the severance, the inability to have the services of NEPSCO Service Company.

Mr. Dunn: Incidentally, if I could digress just a moment, in view of Mr. Nowlin's last question of Mr. Hanson this morning and his answer, I believe his objection to the specific question and answer under discussion was perhaps immaterial. Now, I wonder whether he would change his request.

Mr. Nowlin: The question still is what I understood it to be, or, the way I understood it would have some elements of this issue which we are concerned with, but there are other questions which I objected to, and rather than leave an objection to this particular line, I withdraw that, but I renew my general objection as to any evidence or the admission of [1083] any evidence coming in here with respect to the loss of revenue by the severance of the Service Company.

Hearing Examiner Ewell: As I understand counsel now says there is no dollar value assigned specifically to loss of services of the Service Company, is that right?

Mr. Dunn: That was my statement.

Hearing Examiner Ewell: Then it seems to me that it is all so inextricably woven to the whole picture, I do not see how it would be separated.

Mr. Dunn: It would be very difficult.

Mr. Quarles: And in the case relied on there was clear consideration for that for various purposes. This is a very serious aspect of this whole case, and we would appreciate the opportunity of examining the cases and being able to see what the total effect of them is, as bearing on this question. It is certainly true that in many, if not all, the issue is clouded by other facts, and that it cannot be isolated. Certainly when you are taking into consideration whether severance will produce the substantial losses of economies, it would not make much sense to measure each single component of that and determine whether it is a substantial loss alone. If in the aggregate the amount is such that it is substantial, and I can see no point in undertaking to determine what percentage of your total operating expenses or your total losses result from one of the factors, and saying that because [1084] it is a relatively small amount it should not be considered at all. I am not sure of my ground on this particular case because I have not read it for some time, but I think that that figure alone was being claimed as constituting substantial loss. We are not making that claim. We are not claiming that that single item is substantial loss in and of itself. But we are claiming that it is one of the factors to be considered.

Hearing Officer Ewell: It is part of the total of the substantial loss.

Mr. Quarles: That is right, sir.

Mr. Nowlin: Just how much of this total is rested on this one item?

Mr. Quarles: Our evidence will provide opportunity for analyses that you can see how it is made up, I am sure, when it is all in.

Hearing Examiner Ewell: Off the record.

(Discussion off the record.)

Hearing Examiner Ewell: Under all the circumstances, I think the way I will have to leave it, unless you want me

to reserve on it, the way I would be inclined to leave it at this point, is to leave it in the record and take it with the understanding that Mr. Nowlin would have a right to move to strike it at a later time. Mr. Nowlin, if he finds that the evidence is pointed out in such a way that it can be properly [1085] excluded or excised from the rest of it, is that right?

Mr. Dunn: It is.

Mr. Nowlin: It seems to me if this total figure includes items which are not relevant, then the whole figure fails. In other words, if you cannot examine into the contingent parts of this figure, how do we know how much is included in that that should not be in the record?

Hearing Examiner Ewell: The Respondent has the burden of proof. You have raised the question. I think it would be up to them to furnish some sort of supporting data for their own position.

Mr. Quarles: Our position, first of all is that this is not irrelevant and should not be held irrelevant because of its own smallness. If combined with others, it makes a total that is substantial. Secondly, we would expect when the record is complete the figures will be available from which this breakdown can be computed, and, as I said before, if there is a problem on that we will certainly undertake to provide additional figures.

Mr. Nowlin: The Commission has delineated in several of its opinions the items that may be included, and if you are including several items that the Commission says are not properly included, it seems it throws the whole estimate off unless we can isolate certain parts of them.

Mr. Quarles: Well, we will undertake to isolate them [1086] so that any of them subject to differences of opinion can be identified.

Mr. Nowlin: I think we have the tax matter and we have this item, and I do not know what other items that may be

defective. You have got to pull those things out and get to the real meat of it.

Mr. Quarles: Yes, and as I said this morning, our theory of the case is that if we have an adequate record to enable each of these to be examined and adequate information, a final decision by the Commission, regardless of which way it decides, should be included or excluded, then we have the proper kind of a record.

Hearing Examiner Ewell: As I understand, you virtually conceded this is relatively small.

Mr. Quarles: No, sir. We have not conceded that it is relatively small. We have argued that the size of it alone is not a ground for excluding it.

Hearing Examiner Ewell: Well, it does seem that it would be in your interest if it would be possible to assign some kind of a dollar value to it.

Mr. Nowlin: That might have a very important bearing on the question of whether or not they needed eight presidents.

Mr. Quarles: Various of these things it is impossible to pass on until the record is complete. We recognize the burden is on us to prove our case, to prove substantial [1087] losses of economies of the kind that are properly taken into account.

Hearing Examiner Ewell: All right. Now, getting back onto the record, then, the record will show that the record is being taken now subject to whatever revision may be made at a later time on motions directed toward the evidence at a later time. It is in now, though, for all purposes. Now, there is one letter that I have not disposed of, to Mr. Huson, Exhibit 88. Was this objected to?

Mr. Nowlin: Yes, sir.

Hearing Examiner Ewell: On what grounds?

Mr. Nowlin: The ground that it related to the very matter we have been discussing here.

Hearing Examiner Ewell: Which part of it?

Mr. Nowlin: The statistical information on the gas companies.

Hearing Examiner Ewell: What is the relevancy of this, Mr. Dunn?

Mr. Dunn: It is to put into the record evidence of what the actual operating costs of the Electric and Gas subsidiaries would have been during 1958 if this Service Company adjustment had been in effect during that year.

Hearing Examiner Ewell: What service company adjustment are you speaking of now?

Mr. Dunn: At the beginning of this year the SEC issued [1088] an order which permitted the executives of the holding company to go on the payroll of the service company. It has meant that the Service Company can now bill to the operating companies the charges from Management Services. This used to be borne entirely by the holding company alone. These particular charges, that this letter is referring to, are given in order to show the effect of the severance of the gas properties from the NEES system in the test year 1958.

Hearing Examiner Ewell: Would that be a benefit? Wouldn't that increase the cost of the Operating Company?

Mr. Dunn: It certainly will and means in the case of the gas companies that the alleged loss of economies is going to be less.

Hearing Examiner Ewell: By reason of this situation?

Mr. Dunn: Yes.

Mr. Nowlin: This is all put in for the purpose of showing the adverse impact to the gas companies?

Hearing Examiner Ewell: You want to show the other side of the coin.

Mr. Dunn: We want to show it in its true light, favorable and unfavorable.

Mr. Nowlin: I will have to object to it on two grounds.

Insofar as it goes to the electric company, I say it is irrelevant, and insofar as it relates to the effect on the gas company it is immaterial because the Commission held [1089] it has no probative value. Mr. Examiner, I do not think it does too much damage, so I will withdraw my objection to this exhibit, but I want the standing objection to continue on any evidence coming in here with the impact of the service company on the gas companies insofar as it relates to an attempt to establish a substantial loss of economies.

Hearing Examiner Ewell: All right. I will receive it with your reservation noted in the record.

Now, is there anything else that I have forgotten or omitted that is pending in reference to Mr. Hanson's testimony?

Mr. Dunn: There is nothing further, sir.

Hearing Examiner Ewell: All right, do you want to call another witness?

Mr. Dunn: I would like to call Mr. Lother at this time.

Whereupon

ELMER H. LOTHER

was called as a witness on behalf of the Respondent, and having been first duly sworn, was examined and testified as follows:

Direct Examination

Hearing Examiner Ewell: Your full name, please.

The Witness: Elmer H. Lother.

By Mr. Dunn:

Q. Mr. Lother, would you give your educational and [1090] business background? A. I attended school in Warren, Rhode Island. I also spent several years studying accounting and related subjects at Bryant and Stratton Commercial School, which is now Bryant College, in Providence, Rhode Island. In addition, I have participated in

several educational programs pertaining particularly to utility accounting and management. The most recent educational experience was attendance at an executive training course for gas, electric and telephone company executives at the University of Michigan.

Since September 13, 1920, I have been employed by companies comprising NEES to its predecessors. I started out in the accounting department of The Narragansett Electric Lighting Company as an accounting clerk. Over the years, my duties have ranged in all areas of retail company treasury and accounting operations, systems and methods and internal audit functions. During many years of supervisory, administrative and executive responsibilities, I have been familiar with many activities related to local treasury and accounting operation.

At present I am a member of the Executive Committee of the Accounting Division of Edison Electric Institute and also a member of the Advisory Board of the Accounting and Financial Division of the Electric Council of New England.

Q. I take it then that you are particularly familiar with the retail treasury and accounting operations. [1091]

A. About 28 of my 39 years of service have been devoted to actual work within the local treasury and accounting organization. During the other years I have been located in Boston and my duties have been relative to retail treasury and accounting activities.

Q. And what is your present position and responsibility within the System? A. I am Vice President and Comptroller of New England Power Service Company. My responsibilities include supervision of the activities of the internal audit group, and the systems and methods group of New England Power Service Company, as well as supervision of all retail treasury and accounting operations in the subsidiary companies of both gas and electric.

Q. Mr. Hanson has previously described his responsibilities and the functions of certain groups that are under his direct supervision. Will you describe your relationship to Mr. Hanson and to these groups? A. I report to Mr. Hanson concerning those responsibilities or functions which I previously mentioned and which are under my immediate supervision. In addition, however, many of the groups of New England Power Service Company are performing functions which have a very definite relationship to the activities in the retail treasury and accounting organization which is under my supervision. Therefore, I am directly concerned [1092] with the relationships between the retail treasury and accounting people and the other groups in New England Power Service Company.

Q. Will you illustrate? A. One example of this might be with respect to the activities of the Purchasing Department. All of the companies both gas and electric, in their day to day activities use printed forms, office supplies and office equipment. These supplies are requisitioned by local personnel through the Purchasing Department of the New England Power Service Company. Such requisitions are reviewed by the Systems group to insure use of materials which have been adopted as standard and to group requisitions for similar items so as to purchase in volume and obtain the materials at the lowest cost.

Another area is a close relationship between those persons handling labor relations and personnel matters to obtain correct interpretation of contracts and personnel advice to insure uniform handling by local supervisory and payroll personnel.

In another area we work with all departments when new laws, regulations or policy decisions make necessary procedures and form changes. This, of course, is in addition to the constant revision and updating of forms and pro-

cedures by the System and Methods Group to obtain the most efficient and most economical results.

Q. You mentioned that you have direct supervision over the systems and methods group. Will you describe this group and its functions? [1093] A. The systems and methods group, which includes 6 people, makes studies for the various companies in connection with the handling of various accounting aspects of local operations including the interpretation of classifications of accounts prescribed by regulatory bodies. It also continually reviews accounting forms, reports and other papers with a view to standardizing and simplifying the accounting procedures of the companies. This group produces standard forms and procedures and maintains a control of these standards through a review of purchase requisitions. As a part of this systems and methods group, we now have a committee consisting of two accountants and an engineer who are making a continuing study of new developments in the machine and electronic accounting field with particular reference to the advisability of utilizing electronic data processing equipment for system activities.

Q. Will you now describe the internal audit group? A. This group consists of 11 persons. The travel auditors in this group make comprehensive annual audits of all System companies. This not only provides for internal controls but also enables our independent accountants to reduce the scope of their audit procedures. In connection with the periodic audit and the examination of accounting records and methods, the internal auditors prepare reports reviewing and making recommendations for corrections or changes as circumstances warrant.

The internal audit or travel audit group provides [1094] a source of trained accounting personnel in the event of sickness or other disability among local treasury personnel. The personnel in this group received an excellent training

and are candidates for future supervisory positions in the companies when the need arises.

Q. Mr. Lother, will you now tell us something about this treasury and accounting organization which you supervise?

A. The present retail treasury and accounting organization is a product of the corporate and functional simplification carried out by the NEES System over a period of years.

Q. What do you mean by "retail"? A. I mean those companies principally engaged in selling gas and electric service to residential and other ultimate consumers as contrasted with the Power Company which is wholesale and NEPSCO which is engaged in providing services.

Q. Why do you say that the organization is a product of past corporate and functional simplification? A. As corporate and management lines have been changed over the years in connection with consolidations, mergers and sales of property, local treasury and accounting personnel have been reorganized and consolidated into larger units. Realizing that each of these changes was merely one step in a series of many steps in the corporate and functional simplification of NEES, the treasury and accounting organization naturally had to adapt itself to this changing pattern over a [1095] period of years. The establishment of a district or divisional basis of operation which to a degree ignores corporate lines, provided the framework whereby we could make continuing changes within the organization. Therefore, as companies were reorganized and consolidated into larger units, personnel requirements could in many cases be reduced over a period of time. The flexibility of such an arrangement has been demonstrated time and time again over the years. Along this same line it is apparent that the organizational patterns for these various districts or divisions may vary. The requirements of the retail treasury and accounting organization are dependent in a large degree upon the size of the companies, the character

of the territories served, the volume of work in each district or area. We have not attempted to impose a strict organizational pattern in all of the areas but rather have adapted the organization to the particular requirements of each different situation.

Q. Will you explain this further? A. In the central and western Massachusetts areas which operate out of Worcester, where we cover a relatively large territory when measured by square miles, the organization is highly decentralized. This situation, however, is substantially different from that which we have in Malden where we have a highly centralized operation. In turn, the Lawrence organization is somewhere between the highly centralized organization in Malden and the decentralized operation emanating from Worcester.

[1096] Q. Wouldn't there be additional advantages to be obtained from further centralization of operation in some of these areas? A. This may be true. However, NEES has only partially completed its corporate reorganization and simplification program and some of the further advantages of centralization will come along in the years ahead. We are, of course, combining office operations wherever possible to do so and working towards an ultimate centralized operation, without waiting for corporate changes.

Q. What type of equipment do you now use? A. At the present time we utilize a wide variety of methods, equipment and procedures. We use punch card equipment to varying degrees at four locations in Massachusetts and one in Rhode Island. In some areas, all phases of treasury and accounting functions are performed, in part, on machine accounting equipment while in others machine use is primarily in customer accounting. However, by and large, most general accounting functions are performed manually. With respect to customer accounting, we utilize

various types of key driven equipment or punch card equipment. However, as we proceed in the future to further centralization of operations, we expect that standardization and mechanization will follow.

Q. Do you expect to make use of major electronic data processing equipment in the future? [1097] A. I feel reasonably sure that the treasury and accounting organization will utilize more of the electronic equipment which is being developed to perform clerical functions. We, as I previously mentioned, now have a group making a continuing study as to the advisability of utilizing some of this equipment. However, we expect to move slowly in this area, particularly since the manufacturers seem to be developing and making available new and better equipment almost every day in this rapidly changing field.

Q. Does the fact that your accounting involves gas and electric business complicate your problem and delay standardization and mechanization? A. No—not in any way. As a matter of fact, the similarity of the accounting functions and the volume resulting from the combination of gas and electric makes it easier to economically use larger equipment.

Q. What are the functions of the retail treasury and accounting organization? A. Generally the personnel in the retail treasury and accounting organization are those engaged in the day to day accounting activities of the operating companies. This includes general accounting, plant accounting, payroll accounting, customer accounting and collections, and stores accounting operations. In addition, local insurance activities are within the treasury and accounting organization. Safety activities and medical activities also are often closely related [1098] to insurance activities and as such some may come within the retail treasury organization. In some areas customer service order functions are performed within the treasury and accounting

organization. In addition to maintaining all basic records the treasury and accounting organization produces all necessary reports and statistical data.

Q. What are the advantages of combination gas and electric operations within the treasury and accounting organization? A. I will touch some of the more obvious advantages. One very important area that has many advantages is in the customer accounting and collection function. The reading of meters of combination customers by one employee, maintenance of bookkeeping records by one clerk, the joint cashiering function, including jointly used collection agencies and other facilities, and the area of credit and field collections of overdue accounts are some of the more important with definite advantages.

Q. Returning now to the retail treasury and accounting organization will you tell us something about it? A. There are presently seven Treasurers or Assistant Treasurers of subsidiary companies who are referred to as Treasury Representatives and who supervise seven groups engaged in local treasury and accounting activities for the retail companies. Five of these groups are in Massachusetts, one in Rhode Island and one in New Hampshire.

Q. How many of these groups are joint operations with [1099] gas and electric treasury and accounting activities? A. The five groups in Massachusetts are joint operations while those in Rhode Island and New Hampshire are entirely electric operations.

Q. What is a Treasury Representative? A. The Treasury Representative is the field representative of the treasury and accounting organization of the NEES System. He is either a Treasurer or Assistant Treasurer of the retail companies in his area. The Treasury Representative performs both line and staff functions, with the greater emphasis being placed on his line function. By this I mean he is responsible for all personnel in the local treasury and ac-

counting organization engaged in performing the general accounting, customer accounting, stores accounting and similar or related activities.

Q. What is the relationship of the Treasury Representative to the local management? A. The Treasury Representative performs a very important function in the local management picture. A considerable amount of his time is spent in consultation with local management. This is particularly true with respect to regional electric management and to the President of the Gas Division. The Treasury Representative is a principal member of the management team and is consulted on the many phases of company operation.

Q. What is the relationship of the Treasury Representative to the central organization? [1100] A. The Treasury Representative is the principal link between the local treasury and accounting organization and the personnel of New England Power Service Company. He maintains the continuous flow of information to and from the various functional groups or specialists of New England Power Service Company and the local organization.

Q. What part does the Treasury Representative play in the determination of overall accounting policy? A. The Treasury Representative takes an important part in the development of system policy. He participates in the establishment of system policy and procedure in many ways. One way is through Treasury Representative meetings held for the purpose of discussing mutual problems and reaching conclusions as to System policy or procedure. Another way is use of local staff and supervisory personnel as a committee to assist in writing or rewriting System procedures or in establishing uniform practices and standard forms. In other words, these men directly or indirectly participate in the establishment of all procedures and practices which they must supervise.

Q. What advantages does the central organization bring to Treasury Representative meetings and to the committee activities referred to? A. Upon request, Service Company specialists attend meetings to present matter originally or to evaluate directly comments [1101] from the Treasury Representatives and others on subjects which have been presented for discussion.

Q. I believe you said there were presently five Treasury Representatives in Massachusetts. A. Yes. They are located at Worcester, Lawrence, Malden, Lynn and Quincy.

Q. Would you describe the duties of the Treasury Representative at Worcester? A. The Treasury Representative at Worcester administers local treasury and accounting activities for the electric companies and the gas companies in Central and Western Massachusetts. The companies under his jurisdiction for treasury and accounting matters are Worcester County Electric Company, Northampton Electric Lighting Company, Northern Berkshire Electric Company, Southern Berkshire Power & Electric Company, Central Massachusetts Gas Company, Northampton Gas Light Company, and Wachusett Gas Company. The Treasury Representative is an Assistant Treasurer of each of these companies.

Q. How do these companies compare in size? A. Worcester County Electric with approximately 205,000 customers far overshadows the rest of the companies in this district. Worcester has 85 per cent of the total electric customers and 77 per cent of total customers including both gas and electric. Northern Berkshire Electric Company is the next largest company with over 16,000 customers, with North-[1102] ampton Electric Lighting Company being next largest with over 9,500 customers. Southern Berkshire is the smallest of the electric companies with approximately 8,000 customers.

Q. What about the gas companies? A. These companies

are very nearly the same size. The largest company is Central Massachusetts with over 9,500 customers, while Northampton and Wachusett each have about 8,000 customers. Other measures for size such as total plant investment and number of employees reflect similar results.

Q. Will you tell us something about the Treasury Representative's principal assistants? A. A staff assistant is the Auditor who is located at Worcester and who is responsible for local internal controls, procedures and special studies for all of these companies. An Accountant and Audit Clerk perform detailed duties for the Auditor.

Q. How does the Auditor function? A. The Auditor is in the field frequently, traveling among the companies in order to keep the Treasury Representative well informed as to how accounting procedures and policies are being implemented in the various field locations. He is usually in close personal contact with the central organization in Boston, including those on the internal audit staff and the systems and methods group. He is usually immediately informed [1103] of all items of importance to any system company for investigation in his own companies, and is able to pass on items of importance to the central organization.

Q. Does the Auditor assist in other ways than you have just described? A. Yes, he is usually a member of the various treasury and accounting committees establishing procedures and standards. As examples, we presently have two very active committees. One of these is in the Forms and Procedures Committee where existing and proposed forms and existing and proposed procedures are under regular review. Another committee is the Electronics Committee, which I mentioned before, where existing machine accounting functions are reviewed and feasibility studies are made concerning new programs. By drawing together these talented and experienced people from various parts

of the gas and electric system, we are able to put together specialized study groups that are highly productive at a minimum cost.

Q. Does the Auditor at Worcester have supervision over any of the local treasury and accounting activities? A. No, his responsibilities are staff only.

Q. Who is next in line after the Treasury Representative? A. With respect to the local treasury and accounting activities, a Comptroller located at Worcester has charge of the general accounting, customer accounting and stores accounting activities for Worcester County Electric Company, Central Massachusetts [1104] Gas company, Wachusett Gas Company, Northampton Gas Light Company, Northampton Electric Lighting Company, Northern Berkshire Electric Company and Southern Berkshire Power & Electric Company.

Q. Would you state briefly how the Comptroller performs his supervisory function? A. Most day to day matters are handled by the Comptroller and his staff in accordance with established treasury and accounting procedures and the requirements of regulatory authorities. Any required interpretation of established procedures would, of course, be the decision of the Treasury Representative who in turn would contact me if necessary in order to insure uniform System operation.

Q. Considering the Worcester, Central and Wachusett areas, would you describe the treasury and accounting functions coming under the Comptroller of these companies? A. We have two principal locations in the Worcester area where general accounting functions are performed. For the Worcester Company, general accounting personnel and plant accounting personnel are located at the Southbridge Street office in Worcester. For Central and Wachusett, the general accounting, including plant accounting and

payroll, is performed by an all gas group located at Webster.

Q. Are these groups similar? A. The functions performed are similar, but the requirements [1105] of the accounting function is dependent upon the size of the companies, the character of the territory served and other operational patterns.

The Worcester Company's plant investment approximates 88-1/4 million dollars at 12/31/59 whereas the combined total of plant for Central and Wachusett was five million dollars. In addition there are many more units of electric plant and for that reason the plant accounting activity for the former will require more clerical and supervisory help than that of the latter two.

Q. Are there other differences? A. This same size differential will be reflected in other general accounting activities such as the preparation and posting of vouchers, entries to subsidiary and general ledgers, accounting work relative to payroll and many other routine activities.

Q. What is the number of employees engaged in the general accounting function at these two areas? A. Including supervision, there are 36 employees at Worcester, and six employees at Webster, including a Chief Clerk, who reports directly to the Comptroller at Worcester.

Q. Would you describe the general accounting function in the companies in Western Massachusetts? A. The function is similar to that which I have just described for Worcester area in that it includes payroll and [1106] plant accounting along with maintaining the general books of accounts for the four companies in this area.

Q. Where is this function performed? A. Along with all other local treasury and accounting functions, the general accounting for Northern Berkshire, the largest of these companies in terms of revenue, plant investment and meters in service, is located at the office building in North Adams.

Southern Berkshire's accounting functions are performed at its office in Great Barrington and the accounting for Northampton Gas Light Company and Northampton Electric Lighting Company is performed on a combination basis by personnel located at the office building in Northampton.

Q. Are similar numbers of employees engaged in general accounting functions at each of these locations? A. Northern Berkshire, with meters and revenue approximately twice that of Southern Berkshire, utilizes nine employees in handling its general accounting activities. Southern Berkshire has four employees engaged in this function. In Northampton, where the combined gas and electric revenues, plant investment and meters in service for both companies approximates in numbers that of Northern Berkshire, we have ten employees engaged in performing on a combination basis, the general accounting function for these two companies.

Q. Are the general accounting operations performed in a similar manner at all locations in both Central and Western [1107] Massachusetts? A. Generally speaking, yes. All areas utilize a manual operation. Entries from source documents are all hand-posted to the various books of account and reports with no punched card or electronic data processing equipment used in any of these areas.

Q. Would you discuss the customer accounting function as it appears in all of these companies? A. Under the supervision of the Superintendent of Customer Accounting, located at Worcester, the customer accounting activities are performed on a joint basis among Worcester, Central and Wachusett. All of the addressograph work, the billing and most of the preparation work for the bills is performed in the Worcester office. The billing itself is performed on key driven equipment at Worcester. The customer accounting personnel at Worcester, as well as at several

outlying locations, perform this function for both gas and electric customers.

Q. And in the Western area? A. The pattern follows that outlined for general accounting with the customer accounting for Northern Berkshire and Southern Berkshire being located at each of the offices of those companies, and a combination customers accounting function being located at Northampton for Northampton Gas and Northampton Electric.

[1108] Q. Is the size of these various customer accounting groups in the same proportion to company size as was the general accounting function? A. In the straight electric operations such as Northern Berkshire and Southern Berkshire, the size of the customer accounting group would bear the same relationship to over-all company size as did the general accounting group. However, in the combination area this is not quite true. For example, the Northampton Gas and Northampton Electric operations, when measured on a combined basis, approximately equals in size the straight electric operation of Northern Berkshire. In the general accounting function the number of employees engaged in this function at Northampton and at Northern Berkshire is approximately equal. In the customer accounting function, however, where the combined total of meters in service for Northampton Gas and Northampton Electric is about 17,700 and the total meters in service for Northern Berkshire is about 16,600, we find that in Northern Berkshire we require 18 employees in the customer accounting function whereas the combined function at Northampton requires but 11 employees.

Q. And the reason for this? A. The same reason that I have referred to before—that our greatest saving in a combined operation is in the customer contact functions such as meter reading, billing, and collections.

Q. Returning to the area around Worcester, I believe in [1109] your general statement on Worcester customer accounting you mentioned several outlying locations where this function was performed for both gas and electric customers. Would you explain that further? A. There are four locations, each with a supervisor, where customer accounting functions are performed for both gas and electric customers. One of these is located at Clinton where 17 employees handle certain customer accounting functions for 28,000 meters of Wachusett Gas Company and Worcester County Electric Company, of which approximately 8,000 are gas meters in a combination territory.

Q. Why do you say certain of the customer accounting functions? A. The functions at the outlying office which I am describing are exclusive of the actual bill preparation done at Worcester.

Q. Would you continue your description of the outlying combination customer accounting offices? A. The remaining three outlying combination offices are located in the territory of Central Massachusetts Gas Company and Worcester County Electric Company. There is one office at Southbridge, one located at Spencer and one at Webster.

Q. Are there any other combination offices in the Worcester-Wachusett territory? A. Yes, there is an office in Leominster where seven [1110] employees under an Assistant Supervisor who reports to the Supervisor at Clinton perform cashiering, customer service and meter reading functions for 8,900 electric and 5,200 gas customers.

Q. Where would the customer accounting function be handled for these accounts? A. This is handled out of the previously described Clinton office.

Q. How many accounts in total would the joint offices located in Southbridge, Webster and Spencer handle? A. In total, these three offices handle approximately 33,600 meters including about 8,500 gas meters in combination

service areas. The total personnel engaged in the customer accounting function at the three locations totals 31.

Q. Are there any other outlying areas where customer accounting functions are performed in the Worcester area?

A. Not in a combination territory but we do have six locations representing approximately 96,000 straight electric accounts where we perform certain customer accounting functions.

Q. And these are? A. These are located at Franklin, Gardner, Marlboro, Palmer, Milford and Uxbridge; and in total 83 employees, including supervision, are employed in the performance of this function at these locations.

Q. Is the complete accounting function for customers [1111] performed at these locations? A. No, it is similar to the areas that I outlined in the combination territory where bill preparation is performed in Worcester, and the balance of the customer accounting functions are performed in the outlying offices. The functions in the outlying offices are more of a customer contact nature such as meter reading, inquiry, collection, in addition to the bookkeeping.

Q. Any other offices in this territory? A. Not where any bookkeeping is done but we do have several small offices where customer contact work for electric customers of Worcester is performed.

Q. Would you tell us a bit about the customer accounting function at the Worcester office? A. In addition to performing the addressograph work, billing and much of the preparation for the entire area in the central part of Massachusetts, this group takes care of the entire customer accounting function for approximately 65,000 customers of the Worcester County Electric Company. This is the largest single piece of Worcester County's approximately 205,000 customers located in 77 cities and towns.

Q. This must be a sizable group engaged in this function.
A. Yes, including supervision, we have fifty-nine employees

in the customer accounting section located at the Worcester office.

[1112] Q. Has any of the customer accounting function in either the Worcester area or the Western Massachusetts area been mechanized? A. If you mean, do we use punch card equipment, the answer is no. The bills themselves are prepared on key driven equipment at the billing locations and all other functions such as posting of cash, cycle balancing, and other bookkeeping entries are performed by hand.

Q. Would you explain the stores and stores accounting operations in the Worcester area? A. This group is responsible for the handling and accounting for general material and supplies, appliances and appliance repair parts. Stockrooms are located in Worcester and also in outlying locations near the production and distribution locations.

Q. Where are the outlying locations? A. Combination gas and electric stockrooms are located at Clinton, Leominster, Webster, Spencer and Southbridge. Those at Clinton and Spencer are unattended. Worcester County Electric Company additionally maintains as a part of its electric operations several stockrooms and substockrooms throughout the area. These are of both the attended and unattended class.

Q. How is this widespread stores operation controlled? A. Over-all control of the stores activities is placed [1113] in a Stores Superintendent who is located at Worcester. He has seven storekeepers reporting to him from the various field locations.

Q. How is this function handled in the Western area? A. Northern Berkshire has its own stockroom under the supervision of a storekeeper and two clerks located at North Adams. Southern Berkshire stores activity is located at Great Barrington and is carried on by one storekeeper and

a stockman. These stockrooms are for the electric business only.

Q. And in the combination territory at Northampton?

A. A storekeeper with three clerks carries on the combination gas and electric operation at Northampton.

Q. Is there any other operation in either the Central or the Western area that comes within the framework of the local treasury and accounting organization? A. Yes, we have one other group of six persons located at the Worcester office which handles the local insurance, medical and safety activities for all seven companies in the Central and Western areas. This group includes an insurance and medical supervisor, his assistant, a safety supervisor a nurse and secretarial and clerical employees.

Q. Does this last group report to the Comptroller in Worcester? A. Yes, their responsibility is through the Comptroller to the Treasury Representative at Worcester. However, I would [1114] like to point out that because of the nature of this particular function, the group supervisors involved are in almost daily contact with their counterparts in Boston in the central organization and local management.

Q. Now have you completed the area of responsibility for the Treasury Representative located at Worcester? A. Yes, I have.

Q. Then what about the Treasury Representative at Lawrence? A. The Treasury Representative located at Lawrence administers local treasury and accounting activities for Merrimack-Essex Electric Company, Lawrence Gas Company and North Shore Gas Company. He is an Assistant Treasurer of each of these companies.

Q. Does he have a staff group? A. Yes, he is similar to the Treasury Representative at Worcester in that he has on his staff an experienced Auditor who is responsible for local internal controls, procedures and special studies

for these companies. This auditor performs the same staff functions as well for Mystic Valley Gas Company and Suburban Electric Company under the administration of the Treasury Representative at Malden.

Q. How do the companies within the Lawrence area compare to each other as to size? A. We have something of the same situation as that which exists in the Worcester area. Expressed in terms of [1115] over-all revenue and plant investment, Merrimack represents more than 80 per cent of the entire area. Its approximately 166,000 customers are more than 70 per cent of the total customers, gas and electric, in the area.

Q. And the gas companies? A. Lawrence and North Shore are very nearly of the same size. Each has approximately 33,000 gas customers. However, all of Lawrence's Gas customers are in the combination territory with Merrimack-Essex Electric Company, whereas North Shore serves 9,000 of its 33,000 gas customers in the municipalities of Peabody and Danvers where electric service is provided by municipal plants.

Q. How are the overall day to day accounting activities handled in the Lawrence area? A. As in Worcester, the Treasury Representative is assisted by a Comptroller located in the Lawrence office who is next in line of authority and who has immediate supervision over local treasury and accounting personnel.

Q. Would you describe the general accounting activities in their area? A. All general accounting activities are centered at the main office in Lawrence under a Chief Accountant. The general accounting group numbers 32 people and they maintain the general accounting records, prepare reports, and so forth, for the three companies. Specialized functions such as preparation of cash and operating estimates, financial studies and similar matters are performed on a [1116] combination basis.

Q. What other groups are included? A. A payroll group of 14 and a plant accounting group numbering 17, each of which includes clerks on the gas company payrolls, perform these functions for the three companies on a combination basis. Additionally, there is an insurance supervisor, with secretarial and clerical help, performing local insurance functions on a combination basis for the three companies.

Q. Is there any electronic equipment utilized in the performance of the functions that you have mentioned? A. No, the general accounting, plant accounting, payroll and insurance functions in this area are a manual system.

Q. Would you describe the customer accounting activities of this area? A. All gas and electric customer accounting activities are under the supervision of a Chief Accountant-Commercial, who is based at the Lowell office and who generally supervises all customer accounting activities for Merrimack, Lawrence and North Shore. We have customer accounting groups in this area based at Lowell, Haverhill, Lawrence, Salem and Gloucester. The last three of these groups are engaged in combination gas and electric functions; with those located at Lawrence being concerned with such activity for Merrimack and Lawrence in the Lawrence area and those at Salem and Gloucester being [1117] engaged in combination gas and electric functions; with those located at Lawrence being concerned with such activity for Merrimack and Lawrence in the Lawrence area and those at Salem and Gloucester being engaged in combination activities for Merrimack and North Shore. In addition there are several small customer contact offices.

Q. Are there any significant characteristics of the operations of these groups? A. With the exception of the Salem-Gloucester area, the operation is a standard key driven customer billing and accounting function similar to that

which I explained in the Worcester area. The customer billing function at Salem and Gloucester for gas and electric customers of Merrimack and North Shore is performed on electronic accounting machines located at the Malden office of Suburban and Mystic.

Q. What is the reason for this? A. In September 1954, in order to effect large savings in meter reading and customer billing costs, New England Electric System placed all of its then Massachusetts gas companies and electric companies on a bi-monthly reading and billing basis. This, of course, meant a sizable reduction in the billing load at the Malden Billing center. So that we would not lose the economies of volume that we had already won in the machine room (economies made possible by the combined size of the Malden joint customer billing operation which I expect to [1118] explain later) we immediately reached out for the customer billing of North Shore and the Salem-Beverly-Gloucester area of Merrimack. This billing was then being done on key driven equipment at the billing centers in Salem, Beverly and Gloucester. The Salem-Beverly-Gloucester area was nearby geographically and in size presented a good load which enabled us to continue the same scale of operation in the Malden machine accounting room, thereby making continued use of trained personnel, highly developed procedures and more sophisticated equipment.

Q. Would you describe the other combination area which I believe you said was Lawrence?

Hearing Officer Ewell: May I interrupt to ask one question? What do you mean by key-driven equipment?

The Witness: Such as a Burrough's machine or National Cash Register. It has a key board rather than a punch card operation.

Hearing Officer Ewell: Not just a typewriter?

The Witness: No.

By Mr. Dunn:

Q. (Repeat) Would you describe the other combination are which I believe you said was Lawrence? A. We have approximately 33,300 customers of Lawrence Gas Company and 44,800 customers of Merrimack handled through the customer accounting function in this office. Bills are [1119] prepared on key driven equipment. The bookkeeping for customers accounts is on unit desks which, in Lawrence, average something in excess of 9,000 meters per desk and the operators handle the usual functions of posting cash, balancing accounts and recording the in-and-out movement of customers.

Q. What other functions are on a combination basis? A. Part of the customer accounting function at Lawrence is represented by a credit and collections sub-division which utilizes a combination customer history card stored in heavy fire-proof safes. It provides a clear picture of the combination credit history of each of our customers. In effect, it gives us a two-way check which would not otherwise be available to us, for we are able to check each customer's habits on each account. Of course, the meter reading and customer relations activities are also performed on a combination basis within the framework of the Lawrence customer accounting group.

Q. Are there any other functions coming under treasury and accounting responsibility in this area? A. In Lawrence, located on Methuen Street, a short distance from the main office, we have the customer service record center under the supervision of the Supervisor of Customer Accounts. This is a combination Gas and electric customer service record maintained for the approximately 33,000 customers of Lawrence Gas and the 44,000 customers of Merrimack in the Lawrence area.

[1120] Q. What is the advantage of this type of operation? A. To the companies there is the obvious advantage

of saving the expense of a duplicate record plus having comparative information about the same customer in one spot. To the customer, we provide the advantage of being able to make one call to either order "in" both services or order "out" both services, or to make inquiries regarding both services.

Q. Would you express the size of the Lawrence customer accounting function in terms of personnel? A. The customer accounting record center which I just described is operated by five people including the supervisor, our customer relations activity, including credit and meter reading, is handled by twenty-one people and the billing and accounting is performed by thirty-nine clerks. A supervisor and his assistant supervise the entire operation.

Q. Would you just briefly mention the other areas of customer accounting? A. I have already described the customer billing function in the Merrimack-North Shore Gas combination territory which is handled from the Salem and Gloucester offices and utilizes punch card equipment at Malden. All other customer accounting functions in Salem and Gloucester are performed similarly to those just described in the Lawrence area, except that the customer service record is under the supervision of the Distribution Superintendent.

[1121] Q. What is the size of the Salem-Gloucester operation? A. We have customer accounting functions performed at the Salem office by fifty employees including a Supervisor. This includes three branch stores; one each located in Danvers and Peabody, both straight gas territories, where cashiering and sales activities are performed, and a branch office of the Salem area located at 223 Cabot Street in downtown Beverly. A joint operation with Merrimack and North Shore is conducted in this office consisting of cashiering, customer relations and some appliance display.

Q. How many customers are handled from the Salem office? A. Merrimack has approximately 29,000 electric customers in this territory with North Shore Gas Serving 27,300.

Q. And from the Gloucester office? A. The ratio of gas accounts handled to electric is somewhat different in the Gloucester area. There are approximately 6,000 gas accounts and over 14,000 electric accounts in this area.

Q. What is the relative size in numbers of personnel at Salem and Gloucester? A. The Salem office is approximately double that of Gloucester, where there are twenty-four employees engaged in the combination customer accounting function, including a Supervisor.

Q. What other areas are under the supervision of the [1122] Chief Accountant-Commercial located in Lowell? A. The only areas not yet described are the electric operations in Lowell and Haverhill. Lowell has almost 50,000 meters in service, with forty-five employees at this location responsible for meter-reading, customer billings and accounting, credit and collection and customer relation activities. In the Haverhill office, we have thirty-nine employees, including a Chief Clerk and Supervisor of Customer Accounts, who perform the same functions described in the Lowell area for the approximately 30,000 customers of Merrimack in the Haverhill location. This includes branch office operation at Amesbury and Newburyport.

Q. Would you tell us something about the stores and stores accounting function of these companies? A. There is a Superintendent of Stores located in Lowell, responsible for stores activities for Merrimack and Lawrence, including a joint stores group at Lawrence. In addition, we have a stockroom located at Beverly which supplies only the gas operation of North Shore in the Salem-Gloucester district. This latter stockroom is under the su-

pervision of a Storekeeper who reports directly to the Chief Accountant in Lawrence.

Q. Would you briefly describe the various locations?
A. The Methuen Street stockroom in Lawrence provides storage of general stock and records maintenance for both the [1123] gas and electric stock of Merrimack and Lawrence. There are nine employees engaged in the stores operation, including a Storekeeper and his assistant.

Q. You mentioned several electric stockrooms? A. Yes, in addition to the combination stockroom in Lawrence, Merrimack has six other stockrooms located at Salem, Beverly, Gloucester, Haverhill, Amesbury and Lowell, all under the supervision of the Superintendent of Stores in Lowell. He is assisted by Storekeepers in most of the locations; and the over-all personnel involved in the electric stockrooms total thirty employees including supervision.

Q. And now would you describe the North Shore Gas stockroom? A. The stockroom located on River Street, Beverly, serves the entire North Shore Gas area. All material and supplies, including general and merchandise stock, are located here. A Storekeeper and his assistant, with three clerks, make up the personnel handling this operation.

Q. Are there any other stores activities in this area that you have not described? A. No, this completes the stores function here.

Q. What other treasury and accounting activities are there in the Lawrence area? A. There are certain insurance matters included in the Treasury and Accounting activities in this area.

[1124] Q. Would you describe them, please? A. There are an Insurance Supervisor, an Assistant, a Secretary who handles all local insurance matters for Merrimack, Lawrence and North Shore. These people are presently

located at Lowell reporting to the Chief Accountant at Lawrence.

Q. Would you now describe the Treasury Representative at Malden? A. The Treasury Representative located at Malden is in the main office building there which is also headquarters for both the regional electric management executive for Suburban and Lynn Electric Company and headquarters of the Gas Division, besides being the principal office for Suburban and Mystic Valley. The Treasury Representative here administers all local treasury and accounting activities for Mystic Valley Gas Company and Suburban Electric Company, and he is an Assistant Treasurer of each of these companies.

Q. When you described the Lawrence area you mentioned a tie-in between the Auditor there and these companies? A. Yes. The Auditor located in Malden is the same man that I described in the Lawrence area. He is responsible to the Treasury Representative of Suburban and Mystic in the same way that he reports to the Treasury Representative in Lawrence.

Q. Would you describe generally the local treasury and accounting activities at Malden? [1125] A. In Malden we have the most highly centralized and integrated operation in the retail treasury and accounting organization among the five areas in Massachusetts. The area itself is closely knit, and after the corporate mergers in 1953 we were quite successful over the next few years in consolidating the various treasury and accounting functions by bringing them into the main office in Malden.

Probably the major contributing factor to our ability to accomplish this was the installation in 1952 of an electric accounting machine department in the Malden office. This covered certain general accounting and customer accounting activities for the two Malden companies but it was, of course, planned and geared to accept the same

activities for the present Suburban and Mystic after the mergers in 1953. I expect to discuss this department in more detail later on.

Q. Please explain the present treasury and accounting functions in the Malden area? A. As in other areas, a Comptroller, who is next in line of authority to the Treasury Representative, supervises the day to day matters in accordance with established treasury and accounting procedures. The Comptroller is assisted in the many details of the supervision of his organization by a Chief Accountant, through whom all treasury and accounting functions are channeled.

Q. Would you give us some idea of the relative size of [1126] Mystic and Suburban? A. With regard to plant investment, the companies are almost equal, each having approximately \$25,000,000 invested in plant. Suburban has just over 80,000 electric customers, of which approximately 67,000 are in the combination territory with Mystic while Mystic's gas customers number about 99,000. Even though it has fewer customers, Suburban has several very large industrial accounts and therefore its annual gross operating revenue approximates eleven and one-half million dollars, whereas Mystic's revenue in 1958 was approximately nine million, four hundred thousand dollars.

Q. Before discussion of the various treasury and accounting functions in this area further, would you explain the electric accounting machine installation at Malden? A. Our Machine Accounting Department at Malden touches all phases of treasury and accounting functions. Because of its ability to handle volume efficiently, the application of the machine accounting to the joint gas and electric treasury operations is ideal. Mystic and Suburban are, of course, separate corporate entities and we must maintain separate sets of books and render separate bills to customers and so forth, but even though these processes

of bill printing, revenue summary and the listing of ledgers are done separately for each corporation the forms and procedures are common so that machines can be set up to process an operation for each company [1127] with the only change being that of inserting the proper form with the right corporate name. The already established machine wiring and the mechanical operation need not change.

Q. Could you give some idea of the general size of the Machine Accounting Department in Malden? A. Machine-wise there is one electronic calculator, and in addition, we have four electric accounting machines or tabulators and the usual punches, sorters and collators. The present organization, including three people who do clerical work in the machine room, is made up of eighteen employees including a supervisor and his assistant.

Q. Would you briefly mention how this operation touches the other general accounting functions? A. The complete general and subsidiary ledger and other subsidiary records are prepared on the machines for the general accounting group. For the stores accounting function, unit pricing of stock and inventory dollar balances are developed on machines. For the customer billing and accounting function, the actual billing is done on the tabulating machines for all 80,000 customers of Suburban, 99,000 customers of Mystic, 33,000 customers of North Shore and 44,000 of Merrimack's customers on a bi-Monthly basis.

Q. What about payroll? A. With the exception of a small executive monthly payroll, all weekly employees of both Mystic and Suburban are paid [1128] by checks prepared in the machine accounting department. In addition to preparing actual checks, the payroll accounting function is also handled on punch card equipment.

Q. Other than for treasury and accounting functions, is the machine room called upon for any other information?

A. It certainly is. Because so many basic records have been recorded in a usable form in this department, it is constantly supplying special studies and reports to all other gas and electric departments and to both gas and electric management groups. For instance, two critical areas that management is always interested in are employee lost time and employee over-time. With the basic payroll information in the machine room, it is able to supply a continuing comparative report to management and to its department heads reflecting these two items of cost. With regard to customer service rates, we are able to supply gas and electric rate frequency studies in a most economical fashion. The operation of gas and electric vehicles can be analyzed on a comparative basis through information that we have from automobile time reports. With our complete name and address files we are able to perform many jobs for the merchandise sales and new business groups.

Q. Returning to the local treasury and accounting functions, would you please explain the general accounting function in this area? [1129] A. The supervisors of the general accounting, plant accounting and payroll and insurance operations have jurisdiction over the original entries and books of account and other related documents for both the Mystic Valley Gas Company and the Suburban Electric Company. Including supervision, there are thirty-six people involved in these operations including personnel on the payroll of the gas company.

Q. Would you describe the customer accounting function at Malden? A. All of the customer accounting function, including the billing of accounts, the reading of meters, the cashiering, and the handling of credit and collections is headquartered in the Malden office. A Commercial Office Manager located in Malden supervises the over-all gas and electric operation and has immediate assistance

from a staff of five people including a Chief Clerk, assistants and stenographic employees.

Q. What are some of the operations that this group supervises? A. A meter reading group made up of twenty-seven employees, including supervision, handles the entire area of Mystic and Suburban. We deliver customers' bills in all of our combination territory and this operation is part of the responsibility of the meter reading group.

Q. What about customer billing and accounting? A. A supervisor of Customer Accounts is in charge of fifty-eight employees engaged in this function for the approximately [1130] 80,000 customers of Suburban and 99,000 customers of Mystic.

Q. Please explain this operation? A. After reading, the meter books are prepared in the customer accounting section prior to the actual billing operation which takes place in the Machine Accounting Department. Again, as in most of our companies, the customers accounting is done by a unit desk method and after being calculated and printed in the machine accounting room the bills themselves are returned to the unit desk for certain operations before mailing.

Q. You have mentioned unit desk before. Would you please explain what this means? A. Briefly, a unit desk operator has available for processing in one location all the information concerning a group of customers. In the Malden office for example, the average unit desk covering the combination territory would handle the gas and electric accounts for a number of meters in excess of 8,000. On a cycle basis, the unit desk operator does the necessary bookkeeping for these accounts and develops balances.

This includes the posting of cash and making of necessary adjustments. Additionally, each one of the unit desk operators in Malden is able to be contacted directly by customers through telephone. While we have a customers

relations [1131] department for specific complaints, we try to have the girls on the unit desks answer the general information calls from the customers which will cover such items as "When will my meter be read", "Did I pay last month's bill", "How much do I owe on my electric account", or "How much do I owe on my gas account" and "How did you figure my bill".

Q. What are customer benefits here? A. As you can see, the answers to a variety of problems can be had with one call. When the operation is on a combination basis the customer is able to make one call and get all the answers for both accounts. This is one of the many customer advantages to combination operation in the customer accounting function.

Q. Would you now tell us something about the credit and collections operation? A. The cashiering operation is supervised by a Head Teller located in Malden, who has under his jurisdiction five Cashiers in the main Malden office and thirteen Cashiers in branch store locations, including five branch stores which are in all gas territory and five which are jointly occupied with Suburban. The Credit Manager, Credit Supervisor and a Supervisor of Customer Relations head up the balance of the credit and collections operation.

Q. Is this a combination operation? A. Yes, it is and as in Lawrence, a combination customer [1132] credit history record card is maintained in this department. Exclusive of the Cashiering operation which I described, there are twenty-four people involved in the customer relations and credit and collection end of this function.

Q. I know you touched on the stores accounting operation in describing the effects of the merger, but would you please review that function briefly? A. The electric stores operation and the gas stores operation are physically separated from each other and are run as entirely

separate operations. However, the storekeepers of each operation do report to the common supervision of the Chief Accountant of both companies. Additionally, certain records for each and the unit pricing of general stock is handled in the combination Machine Accounting Department.

Q. How many people are we talking about here? A. The electric stockroom consists of a Storekeeper and his assistant and eight other employees, and the gas stockroom has a Storekeeper, an assistant and 11 other employees.

Q. Would you now tell us about the Treasury Representative in the Southeastern District? A. The Treasury Representative of the Southeastern District is responsible for local treasury and accounting functions for the Norwood Gas Company, Quincy Electric Company and Weymouth Light and Power Company. He is located at the main office in Quincy which is also the headquarters of the [1133] regional electric management executive for Quincy and Weymouth and the principal office of the Quincy Electric Company. He is also an Assistant Treasurer of each of these companies.

Q. Are Quincy, Weymouth and Norwood similar in size? A. Quincy and Weymouth are not too far apart in size, with Quincy having approximately 29,000 meters in service and Weymouth over 21,000. Quincy has plant investment of about \$7,300,000 and Weymouth about \$8,000,000. Norwood, however, is considerably smaller than either of the two electric companies. It has about 4,700 meters in service and its plant investment accounts are slightly under one and one-half million dollars.

Q. Would you further describe the Treasury organization at Quincy? A. The Treasury Representative at Quincy is assisted by a staff Accountant who devotes his time to special studies and projects for the district companies. There is also an insurance clerk and safety supervisor

reporting to the Treasury Representative, who handles all local insurance matters and also handles all safety activities of the district companies. Rounding out the staff of this Treasury Representative is a Chief Accountant, who is next in line of authority to the Treasury Representative, also located at Quincy, who serves as the chief accounting supervisor for general accounting, customer accounting, and stores accounting and machine accounting personnel of the Southeastern District.

[1134] Q. Would you describe Norwood's general accounting group? A. Very little general accounting work is actually done at the Norwood office. The Chief Clerk in Quincy and some of the clerks of the Quincy general accounting group are engaged in keeping the general books and accounts of Norwood and in the preparation of monthly financial statements, reports to State and Federal regulatory authorities, estimates and other assignments for Norwood, as well as performing similar work for Quincy.

Q. Is any general accounting work performed at the Norwood office? A. Yes, there is an Accountant located at Norwood, who in addition to performing necessary supervision over other accounting personnel located there, is responsible for the preparation of vouchers, quarterly reports for Federal and State taxes, and the plant accounting functions through maintenance of the unfinished construction ledger.

Q. What about Quincy's general accounting? A. In addition to the Chief Clerk in charge of the general accounting function at Quincy, there are eight other persons engaged in this operation, including payroll and plant.

Q. What about Weymouth's general accounting? A. There is a Chief Accountant in Weymouth who has general supervision over all general accounting, customer accounting [1135] and stores activities. He is also responsible for certain detail work such as the preparation of cash and

operating estimates and special reports. An Accounting Assistant has direct supervision of the general accounting function at Weymouth, and there are five clerks under the supervision of this Accounting Assistant who takes care of the various general accounting, payroll and plant accounting functions for Weymouth.

Q. Did you say that there was a Machine Accounting Department in Quincy? A. Yes. The Machine Accounting Department located at Quincy performs general accounting functions including payroll and plant accounting and customer billings and accounting functions for both Quincy and Weymouth. Additionally, it performs certain general accounting functions for Norwood but it does not handle any customer billing and accounting for that company.

Q. How large a department is the Machine Accounting group in Quincy? A. Including a Machine Room Supervisor, there are 7 employees engaged in this function at Quincy.

Q. Would you describe the customer billing and accounting function in the southeastern District? A. In Norwood, there are six customer accounting employees under the supervision of the Accountant previously described in the general accounting, who are engaged in the customer billing, [1136] accounting, credit and collections and meter reading for the approximately 4500 gas customers of Norwood.

Q. Is any of this work done in the Machine Accounting Department at Quincy? A. No, this work is entirely self-contained at Norwood and the billing is performed on key driven equipment with all other functions being of a manual nature.

Q. Would you now describe Quincy's customer accounting? A. The customer billing and accounting itself is performed pretty much on the punch card equipment at Quincy. Under the supervision of a Commercial Office

Manager and his assistant, there are twenty-seven employees handling all the other phases of this activity such as credits, collections and meter reading and the service order work.

Q. Now the Weymouth Company's customer accounting? A. Again, most of this is performed on the punch card equipment located at Quincy. However, there are twenty other employees under a customer accounting working supervisor who perform the various other functions in the customer contact field for Weymouth.

Q. Would you briefly touch on the stores activities in this area? A. Norwood has only an unattended stockroom. The necessary stores accounting work is done by one of the clerks located at Norwood. Quincy and Weymouth each have a Stores operation [1137] under the supervision of Working Foreman.

Q. Would you now describe the treasury and accounting for the Lynn area? A. Local treasury and accounting for the Lynn Gas Company and the Lynn Electric Company are under the supervision of the Treasury Representative at Lynn, who also serves as Treasurer of these companies. The treasury and accounting organization under his supervision is responsible for all general accounting, including plant and payroll, customer accounting and stores accounting.

Q. Please tell us something about the size of each of these companies? A. Lynn Electric Company has over 45,000 customers, plant investment accounts totaling over twenty-one million dollars and annual revenue that approximates seven million dollars. Lynn Gas Company has about 41,000 customers with gross annual revenue of a little less than four million dollars and its plant investment accounts total approximately nine million dollars.

Q. Who is on the staff of the Treasury Representative at Lynn? A. The Treasury Representative at Lynn has a

staff assistant, a secretary, and an Assistant Treasurer who is responsible for the day to day supervision of all treasury and accounting functions for the Lynn Gas Company and the Lynn Electric Company.

Q. Would you please describe the treasury and accounting as they exist in the Lynn Companies? A. I would like to preface my remarks by saying that the Treasury and accounting organization at Lynn differs in some respects from the other districts. Due to the recent [1138] acquisition of the Company by NEES, Lynn's treasury and accounting activities have not yet been fully integrated into the NEES system.

Q. You do have combination treasury and accounting functions at Lynn? A. Yes, we do, almost all functions of treasury and accounting are performed on a combination basis in these companies.

Q. Please explain the general accounting function at Lynn? A. A group of seventeen people located in the main office on Exchange Street, Lynn, perform the general accounting functions for both Lynn Gas Company and Lynn Electric Company. This includes some part of the payroll accounting and some part of plant accounting. There is another group also located at the main office that performs the function of preparing the payroll on key driven equipment as well as running the necessary duplicating equipment and operating the mail room. This group is under a common payroll department and mail room supervisor. Additionally, and located at the plant on the Lynnway, Lynn, is a group that performs certain stores accounting functions and plant accounting functions under a Supervisor of Works Accounting.

Q. How many employees are engaged in the accounting functions at the last two locations? [1139] A. Including the supervisor, we have eleven employees in the payroll and mail room operation and at the Lynnway location, there

are eleven employees also including the supervisor, engaged in the stores accounting and plant accounting functions.

Q. Is the key driven payroll operation that you mentioned the only mechanized part of the general accounting function? A. Yes, that is correct. The rest of the general accounting is on a manual basis. However, we do have punch card equipment at Lynn, but it is used in the customer accounting only.

Q. Would you please describe the customer accounting at Lynn? A. The customer accounting group at Lynn is responsible for all necessary routines involved in the preparation and mailing of customers' bills, handling orders for connecting and disconnecting customers, maintenance of meter records and the other necessary duties with respect to recording the receipt and payment of bills by customers. As I mentioned before, the gas and electric bills are prepared with punch card equipment. The necessary cashiering activities are also included in the customer accounting activities at Lynn.

Q. How many employees are involved in the operations you have just described? A. Reporting to the Supervisor of Customer Accounts, there are forty employees engaged in the billing and accounting [1140] and cashiering operations. Additionally, we have a Chief Clerk located at the Marblehead branch office of the Lynn Gas Company who also reports directly to the Assistant Treasurer.

Q. What about other customer accounting work? A. A Credit and Collections Department headed by a Credit Manager and his assistant handles the customer contact operation with regard to credit, collections, and customer complaint problems. Including supervision, there are eighteen employees performing these duties. The meter reading group consists of two supervisors and eleven readers who

perform reading on a combination basis for the two companies.

Q. Are there any other treasury and accounting activities in this area? A. I mentioned the stores accounting in discussing the general accounting group. The actual handling of stock also is a treasury function in this area with a Chief Storekeeper and his group located on the Lynnway in Lynn at a combination stockroom. This group is responsible for the receiving and shipping of stock, the ordering of necessary material, the maintenance of minimums stock balances and the approving of invoices for payment. The Chief Storekeeper in charge of this group reports directly to the Assistant Treasurer located at the main office in Lynn. Including supervision, there are eight employees engaged in this combination operation.

[1141] Q. Are there any other Treasury Representatives in any other areas of the NEES System? A. There are no other Treasury Representatives located in any area where the NEES System has gas operations. We do have a Treasury Representative located in Providence, Rhode Island, who has charge of the treasury and accounting activities for the Southern District companies of the Narragansett Electric Company in Rhode Island, Attleboro Electric Company in Massachusetts and the Mystic Power Company in Connecticut. There is another Treasury Representative located in Lebanon, New Hampshire, who supervises treasury and accounting activities for Granite State Electric Company. Each of these men is Treasurer of each of the companies in his area except in the case of Attleboro where he is Assistant Treasurer.

Q. Have you now given a general description of all treasury and accounting functions in NEES as they come under your supervision? A. Yes, I believe I have covered them all.

Q. Mr. Lothar, is the retail treasury and accounting organization that you have described essentially the way it was at January 1, 1959, the date used in the Ebasco report for comparison of the actual and the Pro Forma organizations? A. Essentially yes, although some organization changes have been made to improve operations.

Q. Would you describe them, please? A. With regard to the Central District Treasury Organizations, [1142] we have eliminated the local district group at Northampton comprised of an Assistant Treasurer, Insurance Clerk, and Safety Supervisor and two Secretaries.

Q. What happened here? A. In a realignment of the over-all organizational pattern, the former Assistant Treasurer at this location was transferred to the Malden office as Comptroller of Suburban and Mystic Valley. The Insurance Clerk and Safety Supervisor formerly employed by the four companies in the Western area was moved to the Worcester office as Assistant to the Insurance and Medical Supervisor, and the two Secretaries involved were absorbed into the Northampton Electric Company through replacement of employees who left the employ of that company.

Q. Did you not have a Comptroller at Suburban and Mystic in the Northeastern District Treasury Organization? A. Yes, we did have a Comptroller there.

Q. Then this move must have affected the Northeastern District Treasury Organization also. A. Yes, it did. To improve administration at Lawrence, we decided to confine the responsibilities of the then Assistant Treasurer of the Northeastern District Treasury Organization to Merrimack, Lawrence and North Shore only. At the same time, the former Comptroller at Mystic and Suburban was given the position and responsibilities of Assistant Treasurer of Mystic and Suburban. The vacancy left by this move was then filled by the former Assistant Treasurer of the [1143]

Western area companies of the Central District Treasury Organization.

Q. This sounds to me like the creation of a new District Treasury Organization and the moving of pieces within the existing district treasury organizations with very little effect on the over-all treasury and accounting costs. Is this correct? A. For the most part, yes. This was an organizational change made to strengthen the over-all pattern. However, we did save the salaries of the two Secretaries as they moved into vacancies without their own jobs being filled.

Mr. Dunn: Mr. Hearing Examiner, I wonder if it would not be a good place to have a brief recess?

Hearing Examiner Ewell: Yes. I would like to ask one question. Where the meter readers perform a joint function I presume they perform two functions on one visit?

The Witness: They do.

Hearing Examiner Ewell: Thank you. We will recess for about 10 minutes.

(Brief recess.)

Hearing Examiner Ewell: All right gentlemen, are you ready?

Mr. Dunn: Yes, sir.

Mr. Nowlin: Yes, we are.

By Mr. Dunn:

Q. Is the rest of the Central District Treasury Organization [1144] pretty much as it was at January 1, 1959?

A. As I said earlier in my testimony, we are combining office operations wherever possible and working towards an ultimate centralized operation. In line with this, certain customer accounting functions have been centralized in the Central District Treasury Organization when compared to the organization as it existed at the time of the Ebaseco study.

Q. Would you describe these briefly, please? A. The

customer billing and accounting function formerly performed at the Leominster office on a combination basis for customers of Worcester and Wachusett, has now been moved to the Clinton office, leaving only the cashiering, customer contact and meter reading functions at Leominster which I described earlier in my testimony. This move resulted in a net saving of one employee. Along the same line we also merged the customer billing and accounting function at the Athol and Winchendon offices into the office at Gardner. With this move we saved two employees.

Q. Have you made any similar moves in functions other than customer accounting? A. Yes. At January 1, 1959 we had nine employees engaged in payroll activities for the Worcester County Electric Company. Since then this entire operation was combined, on a trial basis, with a payroll activity carried out on punch card equipment of the Service Company in the Boston office. We now have but one clerk engaged in payroll activity at Worcester itself to [1145] be sure that the proper flow of information is carried on between Worcester and Boston. The movement of the Worcester payroll into the central office in Boston has taught us much about the problems of timing and communication that a completely centralized accounting operation must face.

Q. Mr. Lothar, you have already described the administrative change in the Northeastern District Treasury Organization, have any other changes occurred in the Northeastern District since January 1, 1959? A. No, nothing of a significant nature.

Q. What about the Southeastern District Treasury Organization? A. Again, we have made no changes of a significant nature in this district.

Q. Have important changes occurred in the Lynn District Treasury Organization? A. While certain changes have occurred in the Lynn area, again, the impact on the overall

treasury and accounting function in this area has not been great. On February 5, 1960, effective January 1, 1960, this company separated into Lynn Gas Company and Lynn Electric Company. However, the Treasurer remained the administrative officer for treasury and accounting activities for both companies and the treasury and accounting functions continued to be carried on in a joint fashion as before separation. A more significant event with respect [1146] to treasury and accounting functions occurred sometime prior to separation and subsequent to the Ebasco study.

Q. Would you describe this, please? A. Prior to its acquisition by NEES, the Lynn Gas and Electric Company had been on a monthly meter reading and billing of service accounts. In line with the NEES System policy of bi-monthly meter reading and billing, plans were made and procedures worked out to place the Lynn Company in this same category. This occurred in the middle of the year 1959.

Q. What was the impact of this on the treasury and accounting activities? A. The shift to bi-monthly meter reading and billing allowed the Lynn Company to make savings of seven meter readers and five customer accounting clerks. These savings were all accomplished within the year 1959.

Q. Have the Lynn Companies been able to maintain these savings? A. For the most part, yes. However, when separation occurred early in 1960, it was necessary to send separate bills for the gas service accounts and the electric service accounts where formerly one bill had sufficed for the combination gas and electric company. This meant additional bill handling work and additional cash posting so that it was necessary to add three clerks to the organization. This partially offset the savings that I had previously mentioned.

[1147] Q. Other than what you have just described, are

there any other significant changes in the personnel of the treasury and accounting activity at Lynn? A. No, there are no other significant changes?

Q. Then does this complete your description of the changes that have occurred in the treasury and accounting operations since the date of the Ebasco reports? A. Yes, I believe I have covered all of the significant changes.

Q. Mr. Lotter, throughout your testimony you have described many areas of the retail treasury and accounting organization where employees perform work for two or more companies, will you please tell us how these costs are allocated? A. There are three principal methods of allocation. One method is the use, for billing purposes, of a fixed sum based on a study of the work load involved. Another method is to place the employees on the payrolls as part-time employees of each company for which they perform services. The third is to allocate costs by the payroll-offset method.

Q. Who determines the allocation of costs when joint work is performed? A. The local managers working with the Treasury Representatives determine the allocation of costs among the companies.

Q. Is this matter of allocation a complex and time-consuming [1148] problem? A. No, it is not a time-consuming problem, nor is it very complex. The various local managers, in conjunction with the local Treasury Representative, handle this matter quite easily. Most of the combination work is performed in the various treasury and accounting departments and, therefore, easily measurable in a precise manner. With this information available, a fairly simple conference between the managers with the Treasury Representative in attendance usually resolves allocation problems.

Q. Would you please describe the three principal methods of allocation? A. One of the methods is to have the em-

ployees on the payrolls of each company for whom they perform services. Under this method, the charge to each company can then be on either a fixed percentage allocation, based upon a study of actual work and reviewed periodically to be kept in line, or what we call a time-sheet-basis where an employee enters on his time report the actual number of hours spent for each company. Another method of cost allocation that is used in the various retail companies is the billing of a flat amount to one or more companies by the originating company based upon work studies which are reviewed periodically. A third method that is used is that of the payroll offset where work studies and the application of certain tests reveal that each company in a combination [1149] operation should bear a certain relationship to the overall total, and employees are then placed upon one payroll or the other in order to arrive at the necessary amounts for each company.

Q. Would you please explain in a little more detail the method you described where each employee actually is on the payroll of each company for which he works? A. I believe I broke this into two smaller pieces, one being the method whereby the employee is on the payroll of one or more companies on a fixed percentage allocation subject to review, and the other where he is on the payroll of each company on an actual time-sheet-basis. In the former method, we would use one or more measurements of work load in the treasury and accounting functions such as the number of active meters in service, the plant investment totals of each company or the gross operating revenue. Using these measurements, we would then arrive at a percentage of payroll that each employee or group of employees working on a combination basis should charge to each company for which accounting duties are performed.

Q. Would this allocation last indefinitely? A. No, an allocation of this type is reviewed periodically, and in the

event of any major change within the function where the allocation is used, it would be reviewed following any such change.

Q. Can you give an example of this? [1150] A. Referring to the Malden area, we have within the meter reading group three Bill Deliverers who are on the payroll of both Suburban and Mystic on a fixed 50-50 basis. This is a good example of where a fixed percentage allocation is made and the employees are paid in accordance with this allocation by each company involved.

Q. Please explain the 50-50 allocation here? A. These employees deliver bills in the areas of Malden, Everett, Melrose and Medford. This is combination territory for Mystic and Suburban where there are very nearly as many gas bills delivered as electric, thus the 50-50 allocation.

Q. Would you please explain the time-sheet-basis? A. Again, in this type of allocation, the employee is on the payrolls of the several companies but he records the number of hours that he works for each company and then is paid by each company in accordance with such hours.

Q. How would changing conditions be reflected by this method of allocation? A. A change in work load between companies is automatically adjusted by this method. Each company could pay part or all, or nothing for a certain payroll period, depending upon the hours worked by the individual.

Q. What type of employee would use this basis? A. Not many in the treasury and accounting function as this type of allocation is used generally where the amount of [1151] work performed for each company would fluctuate from day to day. An engineering type employee working for several gas companies or for gas and electric companies would be likely to use this type of payroll allocation. In the treasury and accounting functions, the day to day work load is quite

consistent as between companies and, therefore, a fixed type of allocation is proper in this area.

Q. Could you give us an example of the billing of actual time or the time-sheet-basis as you called it? A. As I mentioned, there are few if any instances in the treasury and accounting organization where the work for each company fluctuates enough to make a time-sheet-basis practical. The Display Department in the Malden area, where combination window display work is performed for both Mystic and Suburban, allocates the work performed for each company on a time sheet basis. The employees of this department are carried on the payrolls of each company and are paid by each company in accordance with the number of hours worked reported on the time sheets.

Q. Would you please explain the method which you said involves the billing of the flat amount to another company for services performed? A. As in the other situations, this amount must first be developed by work load studies. This is similar to the first method that I outlined where each company pays the employee on a fixed percentage allocation. In this case, however, [1152] the amount which each company should pay is determined and then fixed, but the employee is on the payroll of one company only and is paid by that company only. The paying company then bills the other companies the flat amount and is reimbursed.

Q. Where would you use this type of allocation? A. This lends itself to the situation where a group of employees is performing similar functions for another company day in and day out during the year. The total for the group that should be billed can again be determined by whatever appropriate measurement should be used and a total adequate amount to be billed can be set up.

Q. Would you give us an example of the billing of a fixed flat amount? A. In my description of the Norwood Gas general accounting function, I mentioned that there were

six employees in the general accounting group at Quincy who, in addition to their regular work for Quincy, did various general accounting operations for Norwood. A study of this work load revealed that each employee required varying amounts of time in performing his particular duties for Norwood. These percentages averaged approximately 15 per cent. The percentages were then priced at the rate for each particular job and the sum of these costs plus proper overhead totaled approximately \$600 per month, which was the amount then set up for monthly billing for general [1153] accounting services to Norwood.

Q. Would you give us an example of the payroll offset method? A. This method is used quite generally throughout the combination operations in the retail treasury and accounting functions. An example is Northampton Gas and Northampton Electric in the Western area of the central district. Again, a satisfactory measurement of proper allocation is made and in this case an average is used of the ratio of gross earnings and meters in service. The resulting allocation was 40 per cent for Northampton Gas and 60 per cent for Northampton Electric. Payroll costs in the treasury and accounting functions were then kept as nearly as possible to this 40-60 allocation by a review of impending terminations and the hiring of new help.

Q. You mention that this method is used quite generally. Where else is the payroll offset method used? A. The quite highly integrated treasury and accounting functions at Malden and also in the Lawrence area are for the most part allocated among the companies in each area by this offset method.

Q. You mentioned the use of certain factors such as revenue, plant accounts and meters in service when you were discussing the basis for allocations of payroll costs between companies. Are these proper bases for such allo-

cations? [1154] A. Yes, each factor that I have mentioned is usually proportionately indicative of the work in the various treasury and accounting functions. Let us use meters in service as an example. Related to the number of meters in service are items such as service orders, final bills, number of customers billed, cashiers' stubs, and delinquent accounts handled and charged off. These items represent the media upon which the members of the customer accounting function actually perform their daily work. Furthermore, whether the item is gas or electric, it is pretty generally handled in the same manner. If it is a combination, the information for each service is handled in like manner. It therefore follows that a time study of the handling of items such as these would reflect the actual work load for each company.

Q. Can you give any specific examples of this? A. In the Malden area in 1958 at year end, Mystic had 98,758 meters in service and Suburban had 80,307. This represented a 45 per cent electric-55 per cent gas ratio. Now looking at some of the detail necessary to handle these active meters, I would like to quote some figures from a feasibility study upon which our Electronics Committee is working. In November 1959, these companies billed on a bi-monthly basis 40,008 electric customers and 49,762 gas customers. This is an exact 45 per cent-55 per cent ratio. An average month's service orders representing work that must be processed through [1155] several phases of customer accounting were 2,478 electric and 3,426 gas, or a 42 per cent-58 per cent electric to gas ratio. The study of final bills revealed an average number for the electric company of 823 per month and for the gas company 1,106 per month. This is a 43 per cent electric and 57 per cent gas ratio. Cashiers' stubs in the month of October 1959 were counted as follows: 39,286 for the electric company and 51,843 for the gas company, a ratio of 43 per cent

electric and 57 per cent gas. As you can see, these examples of the detail work related to the number of meters in service are very nearly in the same ratio as each company's meters in service are to the combined total.

Q. Do all areas use the same factors in developing a basis for allocation? A. All areas consider all factors and each area attempts to use a basis which will bring about a fair and equitable allocation in terms of work being performed for each company.

Q. Please explain that a bit more? A. Again, referring to Mystic and Suburban we find that the electric revenue is 55 per cent of the combined total gas and electric revenue—just the opposite ratio from that of meters in service. However, there is a local situation whereby a few very large industrial customers of Suburban account for almost 20 per cent of Suburban's gross revenue. Certainly the treasury and accounting work load is not affected by these few [1156] customers proportionately and, therefore, a revenue measurement alone in this area would not be fair and equitable.

Q. Just what is the allocation in the Malden area then?

A. The ratio of meters in service was selected as the best overall allocation for treasury and accounting functions in Malden.

Q. Do any other factors point to this as fair and equitable? A. Yes, in addition to the work load in customer accounting which I have already itemized, we find that the annual general accounting work load for these two companies may be measured in the number of vouchers prepared and processed through this function, which for Suburban is about 7500 and Mystic about 8400, or a 47 per cent electric and 53 per cent gas ratio. Weekly time sheets processed on an annual basis are about 15,900 for Suburban and 20,100 for Mystic, or a 44 per cent electric and 56 per cent gas ratio. Each of these items represents a sub-

stantial amount of accounting distribution work which must flow through the General Accounting Department and presents a firm basis for measuring work load.

Q. Mr. Lothar, you have described in some detail the allocation base for payroll costs in Mystic and Suburban. Have you and people under your supervision reviewed and tested the equitableness of the allocations in the other [1157] areas of the NEES System? A. Yes. While the weight given certain factors may vary somewhat due to local conditions, similar factors have been used in like fashion in each area and we have satisfied ourselves that these allocations are fair and equitable.

Q. Now, Mr. Lothar, would you tell us something about the use of buildings in combination territory? A. In most instances where combination operations are in effect, the building or buildings occupied by the two or more companies involved an owned outright by one of them. We do have situations where jointly occupied space is leased by one of the companies, but this is mostly in the area of branch stores and offices where the space is leased from an outside party.

Q. Would you please give us some specific examples of jointly used buildings? A. In the Malden area, the main office building at 157 Pleasant Street, Malden, is owned by Suburban Electric Company but is occupied jointly by Mystic and Suburban. In Lynn, the office building on Exchange Street, Lynn, is owned by Lynn Gas Company but is occupied jointly by Lynn Gas and Lynn Electric. In the Lawrence area, the principal office is located at 370 Essex Street in downtown Lawrence owned by Merrimack-Essex Electric Company. This office is occupied jointly by Merrimack and Lawrence. One of the few instances [1158] where a principal office is leased is at 205 Washington Street in downtown Salem where North Shore's main office is in a building leased from an outside party by Merrimack but

which is jointly occupied by both North Shore and Merrimack. With regard to the joint occupancy of branch stores, we find examples in the Malden area where stores located in Medford, Revere, Everett, Melrose and Winthrop are all rented from outside parties and are occupied jointly by Suburban and Mystic.

Q. Are buildings other than office buildings occupied in a similar manner? A. Yes, they are. An example would be a building owned by Merrimack and located at 173 Methuen Street in Lawrence which houses both electric and gas distribution and engineering activities. The distribution and utilization departments, the commercial and industrial sales group and the appliance installation supervisor of Lawrence Gas are all located at, or work out of, this location. Furthermore, the garage, the stores and customer service order activities, all jointly operated, are located on Methuen Street in buildings owned by Merrimack.

Q. Are there rental arrangements covering these situations? A. Yes, they are usually rented on an annual basis with the rent being billed monthly.

[1159] Q. Who is responsible for the rental arrangement? A. As in the area of payroll allocation, this is a management decision arrived at usually after consultation with the local Treasury Representative who would supply studies relative to investment, operating costs, and so forth.

Q. On what basis would this rent be charged? A. Buildings, such as the main office buildings in Malden and in Lawrence, and the operational department buildings which I just described, are rented on a cost per foot occupied basis.

Q. Would you describe how this cost is developed? A. Usually an annual cost study is prepared, taking into consideration such items as taxes, depreciation, insurance, building maintenance, utilities, and a fair return on invest-

ment. The building area available for rent is then analyzed floor by floor with the total square footage for each company itemized. This can then be applied against the annual operating costs of the building in order to develop a proper rental charge.

Q. What about the branch stores that you mentioned in the Malden area. Would they be handled in a similar fashion? A. The principle is the same but the basis for allocation is slightly different. A branch store is set up pretty much to handle customer traffic in the areas of cashiering, customer relations and appliance display. It was, therefore, [1160] the opinion in Malden that the rent and expenses of these branch stores should be in proportion to the amount of customer traffic served and, therefore, these costs are allocated on a meter basis.

Q. Mr. Lothar, what was your participation in the Ebasco study? A. I participate in the preliminary conferences with the Ebasco consultants concerning their undertaking of the study. In addition I spent a considerable amount of time with the Ebasco consultants. For the purpose of acquainting them with the many phases of System operations, particularly those under my jurisdiction. I also devoted considerable time helping to prepare, and reviewing the voluminous material which Ebasco had requested concerning particularly treasury and accounting operations and also some of the other System operations. This includes meetings with the Ebasco consultants and also meetings with company personnel.

Q. Will you tell us something about the people under your supervision who also participated in the Ebasco study? A. Most of the information which was necessary for this study was of a type which could best be furnished by the local treasury and accounting organization. Most of the local treasury and accounting supervisory personnel in Massachusetts have devoted some part of their time during

the last year to furnishing information to Ebasco. This is particularly true of general accounting personnel and the supervisory personnel in customer accounting and in stores accounting activities. [1161] This also involved the Treasurer and Assistant Treasurers, the Auditors, the Comptrollers, the Chief Accountants, and the various staff assistants.

Q. What type of information did these people furnish to Ebasco for the study? A. Material included analyses of payroll, personnel, billing, customers, buildings, equipment, work loads, telephone calls handled at switchboards, service orders and similar items.

Q. And were these analyses of a comprehensive nature? A. Yes, they were very much so.

Q. Why such an exhaustive study of your existing organization? A. Since we had requested Ebasco to determine the full effect of severance of the gas business upon New England Electric System and its gas and electric subsidiaries, it appeared that, if the conclusions as to the effects of severance were to be valid, they must of necessity be based upon a study which included a review of the total system organization.

Q. Could you give us some idea of just how comprehensive some of these analyses might be that you say were furnished by personnel under your supervision for Ebasco? A. In the area of personnel and payroll, the local treasury and accounting departments furnished information showing by function and job classification and numbers of employees [1162] within each of those categories, the annual payroll at January 1, 1959 for those employees engaged in joint operations. Additionally, the same people furnished information to Ebasco concerning the basis for the allocation of these payroll charges among the companies. With regard to buildings, personnel under my supervision at the local treasury and accounting offices developed information re-

flecting building use by area and function and company occupancy expressed in terms of square feet and personnel. On these same buildings, information was submitted with regard to ownership or rental basis and the allocation of these costs among the companies.

Q. Was this comprehensive information checked in the field by Ebasco? A. Very definitely. I know that Ebasco consultants reviewed and verified the information submitted to them by personal contact with our employees and supervisory treasury and accounting people in the field. For example, I know personally that Ebasco consultants, together with local Treasury Representative and other supervisory accounting employees, spent time at all locations where gas or combination gas and electric treasury and accounting activities were performed. The personnel under my direction tell me that during these periods of inspection by Ebasco that interrogation of employees engaged in these functions was made by the Ebasco consultants.

[1163] Q. In your opinion then, was a comprehensive examination made by the Ebasco consultants of local treasury and accounting operations at January 1, 1959 in the several gas companies and in those electric areas affected by severance? A. I would say that because of the comprehensiveness of the information submitted to them by myself and the employees under my supervision and because of my personal knowledge of their review of financial statements and other data available to them and my personal knowledge that they physically observed treasury and accounting functions in the field, that their examination of the retail treasury and accounting operation as it existed in the five territories serving gas and electric customers was very complete.

Q. Did your cooperation with the Ebasco consultants and with the supplying of material you have just described? A. No. After furnishing all of this material to the Ebasco

consultants, we also cooperated with them as they proceeded into the second phase of the study which was to arrive at conclusions as to the effects of severance upon these gas companies and upon the remaining electric companies.

Q. By "we" do you mean yourself and the administrative and supervisory employees of the treasury and accounting functions under your supervision? A. Yes. Just as these people cooperated with Ebasco in developing the information concerning our existing organization, [1164] our people cooperated with Ebasco consultants with reference to the personnel, housing and the equipment needs in the event of severance.

Q. Could you tell us something now about the light in which the treasury and accounting functions were considered in the event of severance? A. The treasury and accounting area, of course, was one of the major problems that Ebasco had to contend with in connection with their study. As I have previously discussed, the highest degree of combination operations is within the treasury and accounting organization. In this area almost all functions are carried on jointly with affiliated companies. Therefore, the problem of developing independent gas and electric treasury and accounting operations with a complex one.

Q. How was this problem solved? A. Fortunately, there are yardsticks for large areas in treasury and accounting functions, which can be precisely measured. Let us take for an example the general accounting. The work here consists of maintenance of general and detailed ledgers, the preparation of cash and journal vouchers, the handling of material issued tickets and automobile time reports, the handling of weekly time sheets and preparation of payroll checks, the work on detailed plant records, and other routine clerical functions which are usually preformed on a week by [1165] week or month by month basis.

Q. Of what use are these yardsticks? A. With these yardsticks it is usually relatively easy to determine generally the personnel requirements necessary to perform these functions. By this I mean that a certain volume of work load over a given period such as a week or a month will mean that a certain number of clerks are very definitely needed to handle the paper work involved. Once you become familiar with the volume of work that is performed in a particular department, it is relatively easy to establish personnel requirements.

Q. Is this also true in a function such as customer accounting? A. The customer accounting function can perhaps be measured a bit more precisely than even that of general accounting.

Q. How is this so? A. The meter reading function in customer accounting bears a very definite relationship to the number of customers or meters to be read. Therefore, for a given geographical area or density of customers, the meter reading requirements can usually be determined within general limits.

Q. What about other activities in customer accounting? A. Let us take for example the unit desk operation. The unit desk consists of a large fireproof metal desk where the accounts of customers, including ledgers, cash stubs and [1166] meter reading records are maintained. Each unit desk handles a substantial number of customer accounts, usually somewhere in the neighborhood of seven or eight thousand meters. The clerk at the unit desk performs the function of posting cash to gas and electric accounts, posting arrears prior to billing, cycle balancing the accounts by sections, entering service orders on the meter reading records, preparing final bills (manually), establishing controls for machine billing and many other miscellaneous duties of the accounts receivable routine. In some areas, telephones are located right on the unit desk so the clerk

is able to handle directly those calls from customers regarding account balances, billing dates, reading dates, bill calculation and any number of general information calls. Most of the operation can be measured quite precisely and the overall work load set up on the desk accordingly.

Q. What other functions are like this? A. The cashiering function is another activity which is dependent to a large degree upon the particular work load. As a matter of fact, all of the clerical functions within the customer accounting group can usually be determined rather precisely as far as number of accounts handled, number of meters read, number of collections or shut off calls made, number of telephone calls made for collection, number of cash payments received from customers, number of customer inquiries [1167] by telephone, number of record cards to be maintained, number of bills to be delivered or mailed, number of telephone calls coming through a switchboard, number of pieces of mail received, and all other items of a similar nature.

Q. What about stores accounting activities? Can they be measured in this way also? A. In general, yes. The workload of the stores department is usually established by the construction program, merchandise sales activities and repair parts handled. A substantial amount of the work in this department consists of posting the stores ledgers from sales slips, material issued tickets, vendors, invoices, material received reports and other items. Therefore, generally speaking, we can also consider that stores activities are again an item which can be measured as to workload.

Q. Is it proper to say then that the staffing of the general accounting, customer accounting and stores departments may be in a large part determined through the type of yardsticks that you have mentioned? A. Yes, sir.

Q. Mr. Lother, are you able to talk in more specific terms

concerning these yardsticks, for example, in regard to the Pro Forma Lawrence Gas Company? A. Yes, I believe I can be more specific. For example, if we consider the unit desk operation about which I have talked [1168] at some length, we find that in the office of Merrimack and Lawrence, located at Essex Street in Lawrence, there were 44,814 electric meters of Merrimack, and 33,297 gas meters of Lawrence handled by eight unit desks. This means that on a combination basis, each desk averages 9,764 meters. As presently allocated, four of these unit desks are operated by clerks on the payroll of Merrimack and four are operated by clerks on the payroll of Lawrence.

Q. Mr. Lothar, may I interrupt you and ask if this is a high, low or medium average number of accounts per unit desk? A. For a combination operation, this is a high number of accounts per desk.

Q. Thank you. Would you please continue with your description of the yardstick involved here? A. In the event of severance, it is obvious that the 44,000 plus accounts of Merrimack will be handled by unit desks separate from the 33,000 plus accounts of Lawrence. If, in the event of severance of the gas properties, no change were made in the number of unit desk operators when we apply our yardstick of number of accounts per desk, we would find that the new electric desks would be required to handle well over 10,000 accounts per desk, while the unit desks of the New Lawrence Gas Company would drop to an average of 8,324 accounts per desk. Our long experience with this type of operation tells us that the 10,000 plus figure, which the Merrimack [1169] girls would be required to handle, is excessive and cannot be expected. Therefore, one of the effects of severance would be the requirement of an additional unit desk in the Merrimack customer accounting operation at Lawrence. Looking back at the Lawrence Gas operation, we see that the workload per unit desk has

dropped to 8,324, but again by applying our yardstick we see that we cannot reduce the Lawrence desks from four to three because this would mean that each clerk would have to carry in excess of 10,000 accounts which we have already said is an excessive workload.

It was this type of thinking and application of yardsticks that our treasury and accounting supervisory employees in conjunction with Ebasco consultants applied to the pro forma organizations in order to test their reasonableness.

Q. Why is it necessary for personnel under your supervision to be concerned with how these yardsticks were applied? Could not the Ebasco consultants merely have taken numbers of meters and employees and divided one by the other, coming up with essentially the same figure that was the end result? A. In some cases this would have been perfectly valid but in many other cases workloads would be affected by local conditions and it was in areas such as this that the treasury and accounting employees in the field were able to give Ebasco background factual information.

Q. Could you explain that a bit further, please? [1170] A. If I may again refer to the unit desk operation, you will remember that as I described it, some of the duties are the entering of service orders on the meter reading records and the preparation of final bills in addition to the handling of telephone contact in some areas directly from the customers. Consider for a moment areas such as Gloucester, which is part of Merrimack's and North Shore's common area, and Revere and Winthrop which are part of Suburban's and Mystic Valley's common area.

These are all tremendously popular summer resort areas with customers moving in and out constantly and thereby being added and dropped from the records maintained by the unit desk operator. This means that the unit desks handling these highly active service areas are not able to handle the complete function for quite so many customers

because of the heavy activity in a few parts of the overall unit desk operation such as the service order phase which I have already described. The weighing for local conditions was an area in which the local treasury and accounting people contributed very definitely to the overall effort in making the Ebasco study.

Q. Would unit desk operation be the only area in which the people in the field under your supervision would be able to reflect the weight of local conditions in the application of the yardsticks you have mentioned? [1171] A. Certainly not. This would be true of areas such as meter reading and cashiering to mention two other examples.

Q. Without specific details, could you explain a little bit more about these two areas? A. With regard to meter reading, obviously suburban areas of single homes will require more readers to handle the same volume of work than would be required in tenement sections where one stop may pick up multiple reads. Even within the so-called tenement areas, local condition will vary the number of readers that will be necessary for in some areas meters may still be located in bathrooms or closets within the tenements as contrasted to other areas where they may be set up in the cellar in a battery fashion. Obviously, the latter will require less effort to read than the former. Again, the area in square miles will have an effect upon the volume of work that a meter reader can perform in a day.

With regard to cashiering, we find that in our Lawrence area, for example, our customers have for many, many years been in the habit of paying by cash over the counter for their gas and electric service. In other areas we find a very heavy concentration of payment by check through the mails. Some of this depends upon the effort which local banks make to sponsor the setting up of checking accounts.

Q. These then are some of the factors which the people under your supervision in the field explained to the Ebasco

[1172] consultants as they developed the severance study?

A. That is correct.

Q. You have been describing these factors in terms of customer accounting work. Were the general accounting and stores functions handled in the same manner? A. Yes they were. Here again, the people under my supervision in the retail treasury and accounting operations in addition to making available to the Ebasco consultants the various measurements of work such as vouchers prepared, material issue slips, automobile time reports, weekly time sheets, work orders and other items that could be measured, also acquainted these consultants with local variations that might affect the application of these yardsticks.

Q. Could you give us just one example of what you mean in this area? A. Well, at the risk of getting too detailed and perhaps confusing the issue, I will just mention the preparation of vouchers in the accounts payable section as between companies using punch card equipment and those without. Because the posting is done by hand in the latter companies, we make use of what we call a multiple voucher where many, many payments are entered on a recapitulation sheet within one voucher and, therefore, the summary of that voucher is entered on the books of account and not each individual entry.

The machine company is not too much interested in [1173] saving these individual postings as it is all done by punch card equipment and, therefore, it is practical in a company using punch card equipment to eliminate the extensive use of multiple vouchers in order to save the manual recapping within the voucher and let the mechanized equipment do all the work. Since none of our punch card companies prepare accounts payable checks on machines, the check load would not vary on this basis from company to company, only the number of vouchers.

Q. Mr. Lothar, how else did personnel under your supervision in the retail treasury and accounting operation, contribute to the Ebasco study? A. Contribution to the overall effort by these people in the field continued right up to the final gun. As conclusions were reached and reports prepared by Ebasco, copies of these were sent to certain administrative and supervisory treasury and accounting personnel in the field for review, evaluation and comment. These field comments were then considered by myself, Ebasco and others involved in the project to determine the weight that should be placed upon them.

Q. From your testimony it would appear that in varying degrees certain of the personnel under your supervision in the field were involved in all phases of this entire study?

A. Yes, with regard to the retail treasury and accounting operation, I would consider that a fair observation.

Q. Mr. Lothar, have you reviewed the pro forma estimates as contained in the Ebasco reports for the several gas companies? [1174] A. I have.

Q. In your opinion, are the projections sound that were made with respect to the treasury and accounting functions in the pro forma companies? A. Yes, in my opinion the projections that have been made in the Ebasco reports with respect to treasury and accounting functions are sound.

Q. Mr. Lothar, in summary what are some benefits to the treasury and accounting operations of the gas companies you have described as a result of the gas companies being part of NEES? A. I would like to express the advantage in terms of personnel and facilities, including equipment, and while I may be somewhat repetitive I will try to summarize.

Q. Please proceed with those ascribed to personnel.

A. Of course, with regard to personnel, an important

benefit is in the reading of customers' meters. The two-reads-with-one-stop routine obviously saves many payroll dollars. As I have also explained, personnel costs are reduced in treasury and accounting functions through the joint handling of customers' accounting records by one clerk, the joint collections of payments by one cashier and one collection agency and the joint execution of combination meter calls. We are able to save on personnel and do a better job for all companies through cross company credit reference and we gain [1175] flexibility personnel wise due to diversity in peak work loads. Furthermore, because of many areas with cross company bidding rights able employees have more opportunities for promotion which is, of course, mutually beneficial as it not only gives greater opportunities to employees, but also makes for better use of an employee's talents. In our treasury and accounting activities, supervisors of a higher caliber are available to the gas companies.

Q. Now—with regard to facilities and equipment?

A. The facilities to house the treasury and accounting personnel are, of course, at a minimum because of the combined operations within the system. The combination use of equipment is a major benefit to the gas companies as a part of the system. Joint use of printing equipment, mailing equipment, expensive and large customers' record files, calculating machines, stockroom equipment and much more adds to the gas company benefits, not only by saving duplicate investment in the equipment but again, because of the saving in space required.

Q. Are there other benefits? A. Yes. I may have mentioned it much earlier, but I would like to emphasize that the treasury and accounting functions of the gas companies receive great benefit from association with the specialists of NEPSCO.

Q. Please elaborate. [1176] A. With respect to the audit group, it not only allows savings to the local gas companies by reducing the scope of the independent audit, but it provides a source of help for any company that has a temporary personnel problem in its experienced accounting staff. Many times audit personnel have been able to fill what would have been a serious and costly accounting personnel gap for local companies. The training received by auditors makes this group valuable as replacement personnel for supervisory movement.

The systems and methods group is prepared to supply services relative to forms and procedures so that the most up-to-date information and advice is readily available to the field at a minimum of cost.

Q. Do you feel that the loss of the benefits of joint operation and of the available service of NEPSCO could be serious, would be serious to the companies upon separation from the NEES system? A. I certainly do.

Mr. Dunn: That completes the testimony of this witness.

Mr. Quarles: I have one other witness that is going to take a half hour. If you are willing, I realize the hour is late.

Hearing Examiner Ewell: I will ask the other parties. [1177] Mr. Nowlin: I would appreciate waiting till Monday, but I would not object.

Mr. Quarles: I would not press it if it is inconvenient.

Hearing Examiner Ewell: Off the record.

(Discussion off the record.)

Hearing Examiner Ewell: All right, call your next witness.

Mr. Quarles: And I would like the privilege of having Mr. Vorenberg examine this witness.

Hearing Examiner Ewell: All right.

Whereupon,

C. W. PEARSON

was called as a witness and, after being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Vorenberg:

Q. What is your name? A. C. W. Pearson.

Q. By whom are you employed? A. Ebasco Services Incorporated, Insurance Department.

Q. What is your position there? A. Senior Consultant.

Q. What are your duties? A. I am responsible for all phases of planning, maintaining [1178] and revising the corporate insurance programs of the clients of Ebasco.

Q. What is your experience record? A. I have 35 years' experience in the insurance business, having been with the Home Insurance Company from 1925 to 1930, handling general cover contracts for countrywide accounts; employed by Clarence E. Cooper & Co. in the years 1930 and 1931 as an inspection engineer; employed by Richard L. Roberts, Inc., subsequently consolidated with Frank & DuBois during the years 1933 to 1942 as Accounts Supervisor and New Business Development; and from 1942 to the present date employed by Ebasco Services Incorporated as Engineer, Consultant and Senior Consultant.

Q. What does Ebasco do for its clients in the field of insurance? A. Ebasco furnishes specialized insurance consultation services based upon many years of experience with all types of industry. It determines and evaluates the loss potential of the client's risk; it helps to develop the insurance philosophy on the risk which may be handled within the company and those for which purchased insurance protection is more advantageous; it assists in the initiation or adjustment of a workable insurance program;

it assists in insurance coverage arrangement and administration.

Q. What specific experience have you had in insurance [1179] matters in connection with electric and gas utility companies? A. I have been directly responsible for the domestic and foreign insurance programs of companies served by Ebasco. Currently I am the Senior Consultant in the Insurance Department of Ebasco Services, with ninety retainer clients in the electric light, power and gas business.

Q. What is your educational background? A. I studied civil engineering in the Brooklyn Polytechnic Institute during the years 1931 to 1933; I completed casualty, marine and surety courses in the Aetna School of Insurance during the years 1936 to 1938; and completed my safety engineering studies with the Manhattan College of Engineering in the year 1942.

Q. What organizations and associations are you a member of? A. I am an associate member of the Engineering Section of the American Society of Safety Engineers; I am a member of the Insurance Section of the American Management Association; I am a member of the American Society of Insurance Management; and I am an alternate representative, with Mr. W. B. Sims, Manager of the Insurance Department, on the Insurance Committees of the American Gas Association and the Edison Electric Institute.

Q. Now Mr. Pearson, what did you do in connection with Ebasco's work in this case? [1180] A. I was asked to make, and did make, a study of the effect of severance of the gas business on the insurance programs of the NEES affiliates, and a comparison of present costs and estimated costs. This was based on the assumption that each gas company severed would operate as a separate organization and purchase insurance protection as similar

as possible to that now carried under NEES blanket contracts.

Q. How did you go about carrying out this assignment?

A. I asked that NEES officials responsible for the purchase and administration of the blanket insurance program provide me with detailed information on the coverages in force on January 1, 1959, the rates and rating procedures, and the loss experience. I then reviewed the insurance policies and records from which this detailed information was obtained to verify that it was sufficient to make the detailed study necessary to determine the effect of changing from a blanket insurance program to the purchase of individual programs for the eight independent gas companies.

In making this study, I called upon the specialists in the individual fields of insurance in the insurance department of Ebasco to verify the computations made, and conferred with other Ebasco experts. My discussions and review were not confined to Ebasco or system personnel, but included outside professional services such as insurance brokers, insurance agents and insurance companies who handled the blanket insurance [1181] contracts for NEES.

Q. Would you please give us examples of what outside people you consulted with? A. As respects the boiler insurance, I reviewed this with Mr. D. E. Kee, Manager of the Boiler and Machinery Production Department of the American Motorists Insurance Company.

Automobile Fire and Theft, Comprehensive Crime, Water Heater Warranty Bond, Legal Liability Gas Explosion, Direct Damage Gas Explosion, Extra Expense Insurance, Fire, Extended Coverage and Vandalism and Malicious Mischief, and Sprinkler Leakage Coverages were reviewed with Mr. John T. Keys, of the firm of Obrion, Russell & Co.

The Workmen's Compensation, Public Liability, Automobile Liability, Excess Liability, Valuable Papers were reviewed with Arthur J. Gladney, of the firm of Marsh & McLennan.

The Group Insurance Plan, which provides Life Insurance, Accidental Death and Dismemberment Insurance and Weekly Accident and Sickness Insurance was reviewed with Mr. Leo Skelley of the Metropolitan Life Insurance Company.

Q. After gathering all this information what did you do? A. After this review and discussion of the basic construction of the NEES insurance program, I determined what coverage could be obtained by each of the eight gas companies [1182] so as to approach as near as possible to what I considered an adequate insurance program. The insurance figures shown in the second part of each section of the Ebasco report for gas companies reflect the increased cost for each gas company of such a program.

Q. From what you have said, I gather that Ebasco has knowledge of insurance markets and is familiar with insurance coverages available to the gas industry. How does the NEES program compare with the industry? A. It is (and was on January 1, 1959) a well designed program and should provide protection against losses normally insured against by the gas industry.

Q. Mr. Pearson, I show you a proposed exhibit consisting of ten sheets stapled together, the front sheet being entitled "Summary Effect on Insurance Costs Which Would Arise Through Severance of the 8 Gas Companies from the New England Electric System Holding Company System". Did you prepare this? A. Yes, I did.

Q. Does it correctly set forth the information it purports to show? A. Yes.

Mr. Vorenberg: Mr. Hearing Examiner, I offer this as Respondent's Exhibit No. 89.

Hearing Examiner Ewell: Any objections? Or, are there any questions?

[1183] Mr. Nowlin: I would suggest it be marked as identified at least until the witness gets through and we find out what it is.

Mr. Vorenberg: No objection to that.

(Respondent's Exhibit No. 89 was marked for identification.)

By Mr. Vorenberg:

Q. Are the total figures shown in this exhibit the same as appear in the Ebasco Report? A. Yes.

Q. What is the overall dollar effect of severance on insurance costs for the eight gas companies? A. By combining the increases shown on each page of the exhibit the aggregate estimated annual increase is approximately \$281,000.

Q. Will you indicate in more detail than you did previously what are the major factors causing the increase in premium costs? A. In general, the appraisal of the gas risk to be taken by the insurer is highly speculative; if its probable premium volume is limited, the underwriting and placement problem is increased. This is very evident in the case of these eight individual gas companies. Gas utilities as such have had a very poor liability experience throughout the country. A gas explosion is a spectacular occurrence, and when it happens you can be assured that the resultant effect will be a rash of claims made against the gas utility. Many of these occurrences [1184] have each resulted in better than a million dollars in settlements.

Q. Please give a few examples of what you mean. A. In Ottawa, Ontario, Canada, on October 25, 1958, there was an explosion in the basement of a building resulting in the demolishment of three buildings and severely damaging three others—one fatality and injury to 40 persons. The estimated property damage loss was between \$3,000,000

and \$4,000,000. The casualties could easily have numbered between 500 and 600 if the explosion had happened on a weekday when the demolished office buildings would have been occupied. If the explosion had happened two hours later, 2,000 children would have been in attendance at a special program in the explosion area.

In February 1957, there was a gas explosion in Reno, Nevada. The estimated property damage claim was \$3,000,000.

In 1951, there was the Brighton, New York explosion, which destroyed and partially demolished many private dwellings which resulted in Property Damage losses of \$1,600,000.

These are just a few random examples. In addition to these, of course, is the well-known vertical cylindrical liquified gas holder explosion in Cleveland, Ohio, on October 20, 1944. I am informed by the Insurance manager of Consolidated Natural Gas Company, a holding company of which East Ohio Gas Company of Cleveland is a member, that the total of all claims [1185] against East Ohio at that time was approximately \$7,000,000, and that at today's costs the claims would undoubtedly exceed \$10,000,000.

Q. What effect does the potential for what you have called spectacular losses have upon the cost of insurance?

A. An insurer requires a consideration represented by premium for its promise to pay or reimburse an insured for a loss. Because of the hazard or risk associated with a gas utility, the insurance underwriters require high premiums to provide liability insurance protection. A small gas company, with a small spread of risk and small revenue, together with the catastrophe hazard or risk, does not lend itself to low premium costs which are associated with large risks with a wide spread of risk and large revenues.

Less spectacular, perhaps, but occurring closer to home, was a gas explosion which happened as recently as a few weeks ago. In that accident an unoccupied residence in Pawcatuck, Connecticut, was completely destroyed and an adjacent home and three other tenement houses were set on fire. The damage was estimated at only \$35,000, but had the residents of the destroyed house been at home, injury claims might well have reached substantial amounts. Incidentally, the accident occurred in the nearby territory of a relatively small gas company which, until recently, was a subsidiary of NEES. Each time a large claim occurs, the underwriters insuring a gas [1186] company's liability are of course called upon to pay. Referring, for example, to the Brighton, New York claim which occurred in 1951, chaos was created in the insurance market. This was because a large insurance company lost its^{*} reinsurance treaty causing them to cancel their excess insurance coverage on gas risks which they were underwriting. The market was already limited in the United States for gas risks, so the now uninsured companies approached Lloyds' underwriters, resulting in a seller's market. Underwriters took advantage of their position and resultant rates were from two to ten times greater than these companies had previously paid for their insurance. The large risks, of course, were faced with the lower rate increases.

Q. So that we can understand how the projections in the exhibit were arrived at, would you take us in some detail through the various types of insurance as applicable to North Shore Gas Company? A. I would be glad to do so. The insurance protection falling under all risks insurance—the first item on the North Shore sheet—is stated as being Contents of Motor Vehicles and Destruction of Valuable Papers. Neither of these coverages represents large premiums because of the limited dollar exposure. The North Shore Gas Company could undoubtedly absorb

any of the small losses associated with losses of motor vehicle contents. In view of the premium levels for this type of insurance for a single and a very small company, they probably [1187] would not insure.

As respects the destruction of valuable paper, this is considered a good coverage to have on the basis of our review. North Shore could purchase \$50,000 of coverage as against the \$300,000 they now have under the NEES program at an increase in annual cost of \$70.

Q. Please continue. A. The next item on the North Shore schedule is the Automobile Physical Damage Insurance which provides coverage against losses caused by fire, lightning, transportation, theft, windstorm and other perils. Because there is now a NEES Blanket Policy on this, it would be necessary to rerate this insurance under the rules and regulations of the National Automobile Underwriters Association for this risk in the State of Massachusetts. The resulting additional premium for North Shore Gas Company would be \$320.

Q. Please continue. A. The next grouping of coverages falls under the all inclusive term "Bonds". The Comprehensive Crime policy includes Fidelity, Money and Securities, Forgery, Collection Agents and Open Stock Insurance protection. Over a period of years, because of the good experience under the NEES Blanket policy, the overall risk has been rated with high experience credit modification, reducing the cost to the individual gas companies materially.

[1188] This coverage represents a substantial exposure and premium expenditure. Taking advantage of all credits, the sheet for this company shows an additional cost of \$2,530 for this insurance.

Q. Does this coverage represent a substantial premium expenditure? A. It does.

Q. Do you consider that this insurance coverage is necessary? A. Yes, sir.

Q. I note on the North Shore schedule that as respects Open Stock you state that the separate company would not insure. Why is this? A. The manual rate for this coverage for the first \$5,000 of exposure is \$6.75 per \$100. The next \$5,000 exposure is at a rate of \$5.50. This reduces for the next two \$5,000 increases to \$3.75 and \$1.75 respectively. All exposure over \$20,000 would be written at a rate of \$1.00. The exposure of the individual gas companies is represented by a stock of stoves, water heaters, and so forth, which represent large units and, therefore, would not be subject to a substantial loss, and because of the high premium requirement, I believe that it would not be imprudent for the individual gas companies to self-insure this portion of the risk. For instance, North Shore reports an exposure of \$86,000. The annual cost [1189] to insure against open stock burglary would be \$1,547.50.

Hearing Examiner Ewell: What do you mean by open stock burglary?

The Witness: That is in the warehouse, on the store premises where you have it on the floor. The heaters, or stoves, whatever it happened to be. It is pretty hard to tell, that is to say, it is pretty hard for anybody to steal a lot of them. That is the idea of this.

Hearing Examiner Ewell: All right.

Mr. Vorenberg: I will continue.

By Mr. Vorenberg:

Q. Would you please continue your review of the schedule? A. The next item under bonds is the Water Heater Warranty Bond, which provides insurance protection as a warranty on the manufacturer's guarantee in connection with a water heater rental program. I think this is a form of insurance which North Shore should have even at the

higher rate which it would have to pay on an independent basis. The insurance broker handling this coverage had a great deal of difficulty in placing it, and to disturb the overall coverage would of necessity require a renegotiation of this coverage for the individual company. Because of the lack of spread of risk and limited market, the North Shore premium would increase \$1,300.

Q. Please continue. A. The next grouping of coverages comes within the purview of casualty insurance and represents the heart of the [1190] problem as respects insurance costs. For the purpose of clarity, I will discuss each form separately, the first being workmen's compensation.

Workmen's Compensation insurance is actually not for the purpose of indemnifying the employer, but to carry out the employer's obligation under the Workmen's Compensation Law of Massachusetts. This insurance is a necessary item in the operations of the gas companies. The rating basis for Workmen's Compensation is specifically set forth in the manual issued by the National Council on Compensation Insurance. The premium is based on payrolls under specific classifications, which classifications are subject to a stated rate. On this basis, the estimated annual Workmen's Compensation premium for the North Shore Gas Company would increase \$5,200.

It is not practicable to apply a retrospective plan to the North Shore program as was used under the NEES program because the effectiveness of the premium savings under such a plan applies to large risks of high premium volume only.

Q. Would you please continue with the Casualty program? A. I will take up the next two items, Personal Injury and Property Damage, relating to the General Liability exposure of the operations of the individual companies. Similar to Workmen's Compensation, the basis of arriving at a premium are payrolls times a rate which is found in a manual issued by the National Bureau of

Casualty Underwriters. There are many rateable items under General Liability insurance, but [1191] for comparative purposes and to be on the conservative side, we have used only the Manufacturers and Contractors portion of the liability manual.

In general, the experience of the eight companies has been good. Therefore, the rates used in our pro forma calculations include credits which result in premium reductions of 45 per cent for Mystic Valley Gas Company; 25 per cent for Lawrence Gas Company, Lynn Gas Company and North Shore Gas Company; 15 per cent for Central Massachusetts Gas Company and Wachusett Gas Company; and 10 per cent for Northampton Gas Light Company and Norwood Gas Company.

Q. What was the basis and result of your computations?

A. The premiums have been computed on the basis that the coverage as indicated would be available to each of the gas companies. As I stated earlier in my testimony, the past loss experience in the gas industry has made the market for this liability coverage very limited and those markets available to a small gas company would undoubtedly restrict the limits of liability available to this small gas company. In that the small gas company is confronted with the catastrophe hazard similar to large companies, the premium costs might be so great for high limits of liability, if there was a market for it, that the company might try to operate without it.

This, of course, jeopardizes the continuance of the companies' business and also places the public in a position [1192] of not being able to obtain proper reimbursement in the event they were injured either through bodily injury or loss of property.

As respects the North Shore Gas Company, the annual premium increase is \$20,400 for the primary insurance coverage.

Q. Please continue. A. The next portion of the liability program is under the Automobile Bodily Injury and Automobile Property Damage. Different from Operations Liability, this insurance covers the exposure of the use of all automotive equipment. Automotive equipment exposure probably represents the greatest source of liability claims. This is due to the large numbers of automobiles on the highways and the problem of drivers' errors. Referring to the North Shore Gas Company schedule, it will be noted that the increase in premium for the individual company operation is \$2,900. The premium is based on the manual issued by the Massachusetts Automobile Rating and Accident Prevention Bureau and because of the past good experience of the North Shore Gas Company, a 5 per cent credit on the manual rates has been assumed.

Q. Please continue on the North Shore sheet. A. The next portion of the Casualty program is the Excess of Primary Coverage. Because of the "built in" hazard of gas operations, high limits of liability are required.

Primary insurers usually do not furnish limits of [1193] liability insurance to the extent necessary to protect against the catastrophe occurrence. Therefore, it becomes necessary to purchase excess coverage to ensure that the company is properly insured against costly liability claims. The increase to North Shore in annual premium for the increased coverage shown on the sheet—assuming it could be obtained—is \$1,320.

Q. Please continue. A. In that the foregoing Primary and Excess coverage do not include Legal Liability Gas Explosion Property Damage, it would be necessary to purchase under a separate policy the Legal Liability Property Damage arising out of gas explosion. This is considered as being the hazardous area of exposure of the gas operations and, therefore, is in my opinion, a required coverage. The rates for this form of coverage are subject to negotiation

and insurance companies' premium requirement varies considerably. Because of the sizeable losses the insurance industry has been subjected to, the market for this form of coverage is limited. In fact, because of adverse experience in the gas industry, many underwriters have withdrawn completely from this market. The North Shore Gas Company would be subject to an increase in premium of \$6,950 with a decrease in insurance limits from \$6,000,000 to \$2,000,000.

Q. Do these casualty premiums represent a substantial portion of the overall increase in cost? A. They do. This is the area of insurance coverage [1194] which should be an absolute requirement for a gas company. However, it is a fact that the small gas companies find Liability Insurance extremely difficult to negotiate. I have shown the estimated cost for the individual companies at certain limits of liability. All NEES gas companies had on January 1, 1959 \$6,000,000 and were considering increasing to \$10,000,000 which Ebasco is also recommending to its clients. I would expect that the Lawrence Gas Company, Lynn Gas Company, Mystic Valley Gas Company and North Shore Gas Company could procure limits of liability under the excess protection to around five million, but of course this would be at a substantial increase in insurance cost.

Q. What would be the effect of the individual company operating without adequate insurance protection? A. If there was no insurance, or insufficient insurance, the public could not obtain reimbursement for its losses. This could have a very serious effect upon the financial standing and the credit rating of the company. The NEES blanket insurance program, however, has made available to the eight companies under discussion a low-cost method of insuring against the catastrophe loss and because of this, the catastrophe exposure is protected by Liability Insurance.

Q. Would you continue with the rest of the schedule?

A. I will. The next section of the schedules concerns explosion insurance protection covering physical damage to [1195] the property of the individual gas companies.

The first coverage, Boilers, Air Tanks, and so forth, provides coverage to an insured in the event the boilers, air tanks and other pressure equipment explodes. It provides insurance to the insured for the value of the equipment destroyed plus damage to surrounding property. The boiler insurance company also furnishes engineering inspection service to the insured in compliance with the pressure vessel laws of the State of Massachusetts. This is considered a good preventive measure against the explosion of pressure equipment. Referring to the North Shore Gas company schedule, you will note that the premium is increased \$480 for the individual company. This is because under the NEES blanket retrospective arrangement, a substantial premium reduction is allowed. However, for the individual company risk it must be rated as per the rules and regulations of the standard boiler and machinery manual.

The second form of coverage shown in this section of the sheet is Direct Damage gas explosion which applies to the companies' distribution system. The placement of the coverage is tied in with legal liability gas explosion and the low premium associated with the NEES blanket contract is because of the wider spread of risk and the large premiums on an overall basis which are involved. There is no filed rate basis for this coverage, and in discussions with underwriters [1196] they indicated that the individual companies involved in this report would probably be subject to an annual minimum premium of \$500 to \$1,000. Referring to the North Shore schedule, you will find that we have used the smallest annual minimum premium as

the estimated cost for the individual company resulting in an additional cost of \$410.

Q. Would you please continue with the schedule? A. The next coverage concerns Extra Expense Insurance. The cost for the insurance was actually generated by the exposures of the individual companies combined. Here again we are faced with the large spread of risk which is generated by all of the gas companies combined, and it is estimated that the individual companies would be subjected to at least twice the cost, with the possible exception of Lynn Gas Company and Mystic Valley Gas Company where the premium might be only about one and a half times greater. The increase in premium for the North Shore Gas Company would be \$650.

Q. In your opinion is this a necessary coverage in the insurance program? A. Yes, it is. In the event that there was a failure in the supplier's facilities caused by the hazards of fire, windstorm, explosion, and so forth, it would cover any extra expense involved in supplying gas to consumers. Further to this, it would also cover the expense involved in shutting off and turning on of customers' meters in the event there was a complete loss of gas supply.

[1197] Q. Would you continue with your explanation of the schedule? A. The remainder of the coverages represented in the schedule as Fire Insurance, Extended Coverages, Vandalism and Malicious Mischief, Rents and Sprinkler Leakage insurance furnish insurance protection to the insureds for the perils mentioned. The rates for these coverages are fixed by the rating bureaus and regardless of the size of the risk, the rate would apply to the amount of exposure. Naturally severance would not cause any change in the premium associated with these coverages.

Q. Would you please continue with the final item on these schedules? A. Yes, I will. The final item is the Group

Life, Accidental Death and Dismemberment and Accident and Health. Under this form of coverage, except on very small group cases, the net cost of insurance is essentially the sum of claims paid plus expense being the insurance company retention. There is very little that can be done to reduce the amount of claims in that claims under this form of insurance are inevitable, so that any analysis of cost is purely an analysis of the experience or insurance company retention. The experience or insurance company retention consists of such items as taxes, commissions, reserves for contingencies and general overhead. Often times this experience [1198] is expressed as a percentage of premium or a percentage of net premiums, i. e., premiums less dividends.

For obvious reasons as the size of the group insured increases, the percentage of cost reduces. This is one form of insurance where it is important to combine coverage for experience purposes under one insurance company policy because the retention decreases percentagewise as the size of the account increases. If you will refer to the schedule on the North Shore Gas Company, you will see that the increase in retention is \$2,410.

Q. In your review of the coverages, I have questioned you specifically about the North Shore Gas Company. Do your comments also apply to the other companies? A. Yes, they do. North Shore Gas Company is a convenient point of reference. In general, all descriptions and comments relating to North Shore are applicable to all the companies with appropriate modifications, all of which are reflected on the sheets for the other companies in Respondent's Exhibit 89.

Q. How is the current insurance program of Nees being handled? A. I have had the opportunity of observing the Insurance Departments of many companies, utilities and industrials. The NEES insurance program is being

very ably handled by the insurance department of the Service Company. I noted [1199] that their duties were so divided that specific persons administered the insurance coverages in a related field. These people are experienced, and in my meetings with them I came to the conclusion that the NEES program was in good hands and being handled on a most economical basis.

Q. If the individual gas companies were to handle their own insurance program after the severance, what provision would be made? A. In the placement of insurance, specialized knowledge which is only obtained from years of experience in a highly technical field is necessary. This is an area which the individual companies probably could not afford to employ a specialist. While outside consultants would undoubtedly have to be employed, no provision has been made for them in the pro forma figures.

Q. Under the System coverages for the year 1958, were the premiums charged the gas companies allocated on a fair basis? A. Yes, they were. In each case the premiums were allocated on the basis of exposures, such as under the Crime Coverage the charge was based on the number of employees; Workmen's Compensation and Liability on the basis of payrolls and Direct Physical Damage coverages on the basis of actual exposure.

Q. What effect would the severance of the gas companies [1200] have on the electric companies' insurance program and costs? A. Actually nothing of a material nature. Naturally some minor effect of "volume of premium" is lost, but in that the insurance coverages for the electric companies now generate substantial premiums, the coverages in force would continue at the same relative cost.

Q. To summarize, what effect would it have on the gas companies? A. I have already discussed and documented the very material increase in cost and the reduction in coverages. As I have mentioned, I feel this reduction

would be most undesirable in a time when coverage should be going up—not down.

Q. Just for clarity, may I ask you whether the basis of your comparison in this testimony has been the insurance program of the System as at January 1, 1959. A. Yes, it has. In my opinion, the loss of economies and of protection would be greater if we used today as the basis for comparison.

Mr. Vorenberg: Mr. Hearing Examiner, I would renew our offer of these 10 sheets as Respondent's Exhibit 89.

Mr. Nowlin: I am going to object to this temporarily because this exhibit is directed toward individual companies rather than giving the effect of the integrated system. The instance on the integrated systems which these companies constitute and until it is related to what I pointed out is the [1201] issue in this proceeding, whether or not these companies constitute an integrated system and that system is related to the electric system, I do not see any relevancy that this system has.

Hearing Examiner Ewell: What do you say to that?

Mr. Vorenberg: I think, Mr. Quarles, in his opening statement and during the discussions, during the last three days, has indicated the basis on which our case has been presented, and the reason for which we are first presenting the effects of severance on an individual company basis. We propose, when the story on this basis is complete in the record, to do what I rather think Mr. Nowlin is suggesting, and that is to show the effects on a combined basis.

Hearing Examiner Ewell: You mean if the gas companies were treated as a system?

Mr. Vorenberg: That's correct. Because it is our contention that the proper basis for consideration of the effects of severance is the 8 gas companies individually we are presenting it on this basis. However, we do not at this

time—At this time we do propose to meet Mr. Nowlin's point at a later point in the record as it comes along in orderly fashion.

Mr. Nowlin: I would suggest it be left marked for identification until such time as the record is developed further on this point.

[1202] Mr. Vorenberg: I do not see that serves any useful purpose.

Hearing Examiner Ewell: I think the objection goes to the weight of the testimony.

Mr. Nowlin: It is more than that, Mr. Examiner, when you look at this as an integrated system as the statute requires and as the order of the hearing states, it is applicable to the system, and they have rendered expert opinion. This is a single integrated gas system is the expert opinion they have rendered.

Hearing Examiner Ewell: I am a little bit curious myself why the company did not prepare it on a system basis rather than on this basis in the first instance.

Mr. Vorenberg: Mr. Hearing Examiner, we do not know whether if severance were ordered these companies would go out as a unit, as two systems, three systems, four systems, five systems, anything up to eight, and as Mr. Quarles has explained we believe we have no basis for assuming that they would go as a single system. Analytically we think the proper basis to examine the first is to indicate what it would cost; that is what the cost would be on an individual company basis, then we will try to show what the loss of economies on that basis can be salvaged.

On a later point, I agree with the Hearing Examiner that this goes only to the weight to be given this exhibit [1203] and in that respect I think it falls right in line with the other rulings on similar points that have been made in the last three days.

Mr. Nowlin: So far I think maybe one or two exhibits were let in that I at that time pointed out that I had qualms about. This falls in the same category as the Ebasco report.

Hearing Examiner Ewell: Isn't it a fact and wouldn't you agree, Mr. Nowlin, that there is no definitive basis for the assumption that these companies would be settled as a system, as one system? Aren't they right in saying that it might be cut up in more than one, which would seem to lend some credence and force to their contention?

Mr. Nowlin: The statute does not say how they are to be disposed of. It says look and see if they are a single operating system and see if they are to be separated. That is a remedy they would have to determine at the time the order was issued. If they decide they want to sell them individually rather than retain them it is their election, but it has nothing to do with the issues in this case. Now, the point is here that their substantial loss from the separation of these companies, that is, they are claiming a substantial loss from the separation of these companies. And the first question is: Do the companies constitute an integrated gas system and that is what we are trying to determine now, not what will happen to the properties. There is no [1204] requirement under this act that they sell them individually or collectively or otherwise. Many companies have distributed the stock of their companies to security holders. This has no relevance to the issues at this time.

Mr. Vorenberg: Mr. Hearing Examiner, I might first point out that the statute does not talk about one additional system. It talks about one or more additional systems. There has been no finding that the gas companies constitute a single system and even if there had been we would contend that analytically the way we are presenting this is the proper way, but, I think the answer to Mr. Now-

lin's point is that in the statute it says the Commission shall permit a registered holding company to continue to control one or more additional integrated public utility systems, if, after notice, it finds that each of such additional systems cannot be operated as an independent system. We offer this on the basis that we do not know. We think the proper basis for consideration of this is first looking at the total cost to the eight companies individually. We will then try to further the analyses of the point Mr. Nowlin is making by indicating what would happen if the eight companies were combined. I think this issue falls in the same category as all the others.

Hearing Examiner Ewell: Would there be any prejudice, I think Mr. Nowlin has raised a very good argument, would there be any prejudice to your case in leaving it in abeyance for identification until a later time.

[1205] Mr. Vorenberg: I do not think, as far as this particular exhibit is concerned, it would be any problem. However, this goes to the orderly presentation of our full case and we would not want by indicating that this particular exhibit could be held in abeyance to indicate that the rest of the case as it comes along could also be held in abeyance, because that just would not be possible.

Hearing Examiner Ewell: Do you contemplate submitting additional proof on another basis, that is, on the overall basis?

Mr. Vorenberg: Yes, we do, Mr. Hearing Examiner.

Hearing Examiner Ewell: Well, it seems to me it has some general relevancy.

Mr. Nowlin: You have the testimony by Mr. Hanson and Mr. Krause and counsel stated for the record they consider this a single integrated system so why put in evidence with respect to eight integrated systems? They contend they have one and in the second place, I have not had a chance to cross-examine on it and under no circum-

stances do I think it should go in before I have had a chance to cross-examine.

Mr. Vorenberg: Mr. Nowlin is prepared to concede it is a single integrated system?

Mr. Nowlin: I have made no concession. That is your position on the record.

Mr. Vorenberg: We offer this in effect that it could be one or more systems. We offer it for what effect it [1206] will have. It is part of a whole case that will show with clarity a picture that the Commission can then analyze.

Hearing Examiner Ewell: Mr. Nowlin, do you not contend that it is not possible that these companies might be sold individually?

Mr. Nowlin: Mr. Examiner, that has not a thing in the world to do with the matter before the Examiner today. The problem is to determine whether or not they have a single integrated gas system, and if there is a severance whether there is substantial loss. What the company does with these companies is no concern of this proceeding. This has no relevance whatsoever.

Hearing Examiner Ewell: Mr. Quarles?

Mr. Quarles: I was simply going to say this, sir. Conceding for the moment for this purpose only the validity of counsel's point, namely, that it is the present status that would determine and that should be used as a measuring stick. We do not know that the Commission will agree with us that this is a single integrated system. The Commission might very well say that the seven companies on one line constitute a single integrated system, and the one company on the other gas line is another system. It might, for some other reason say, that some other one individual company cannot be included in the integrated system. We cannot wait until we have had a determination of these issues by the Commission before going [1207] ahead with the rest of the evidence for the total case. It seems reasonable, therefore,

for us to present a breakdown showing what is the cost with respect to each of these companies. If it turns out that that company is a separate system the only one or another or two more, or whatever, it can do there is no possible harm. It is helpful on those theories and I submit it has some value in testing the validity of the losses that we would undertake to show for the eight combined when we present that evidence the early part of next week when we resume. So that on any theory it has some value to the Commission and on no theory can it prejudice anybody's position even accepting Mr. Nowlin's theory that you measure it not by what happens when we sell them but by what is the status of them today.

Hearing Examiner Ewell: Well, I do not think I can dispose of this thing at 5:30 on Friday night, when we are going to meet here again Monday. And I think I will pass it until Monday morning at 10 o'clock.

Mr. Vorenberg: May this witness be excused subject to later recalling?

Hearing Examiner Ewell: Yes, surely, and we will adjourn at this time.

(Whereupon, at 5:35 o'clock p.m. the hearing was adjourned to reconvene at 10 o'clock a.m., Monday, May 23, 1960.)

PROCEEDINGS

[1209] Hearing Examiner Ewell: All right, gentlemen. Let us resume.

Mr. Quarles: Mr. Hearing Officer, just before we adjourned Friday we had offered in evidence a summary of the insurance costs and there had been some discussion of its admissibility, and you reserved decision on it.

In discussing that exhibit and other testimony with respect to the losses resulting from the severance of the gas companies and then operating them as separate units

instead of as a single system, I had mentioned that our approach throughout has been that the principal issue here is the loss of economies resulting from severance and since we did not know what was the status of the gas companies with respect to being one or two more systems, it was necessary for us to introduce evidence that would show the results on various possible hypotheses.

And also I pointed out, I think that in addition to this one main issue there were certain other issues with respect to which we felt it necessary to put in new evidence to enable the Commission to make findings.

We thought that a normal approach to this was to have a severance study that dealt with the assumption that the gas companies would be operated as separate units, that we would go through that, put in the necessary evidence about it [1210] first, then put in evidence as to the result if it were possible to consider all the eight gas companies as a single system.

So that then you would have two extremes and would have sufficient basis for considering any combination that the Commission might ultimately approve or find to be the present status.

Now, Mr. Nowlin has suggested that we should be limited to a consideration of the losses that would result from severance on the assumption that the eight gas companies would be a single system, or a single integrated system now and presumably would continue after severance. Or, I believe he said it was immaterial what happened to them later.

Even if we take that theory, it seems to me that it is a reasonable approach to a study of the losses for us to examine the individual companies first and then the combination. If we went at it the other way and examined the combination first I am sure we could want to buttress that study by an examination of the individual companies so that

you would have a check and so that it would be possible for the Commission to determine the proper allocation as between the electric and the gas and see just how it worked out.

Hearing Examiner Ewell: Do you propose to introduce a similar exhibit regarding the additional costs of insurance on the basis of a single integrated gas system?

Mr. Quarles: We do, yes, sir.

[1211] Hearing Examiner Ewell: May I ask you this, Mr. Quarles: Do you think, though, this question of setting it up as you have as if each company were operated individually and separately after severance is a realistic approach or practical? As a practical matter, do you think that there is any real likelihood of that happening?

Mr. Quarles: I think it is very improbable. In fact, we need not even take into account the possibility of there being eight separate ones. I think it is entirely possible, however, that it might be found that one could not be combined with the other seven. We do not know which particular one or which particular two.

So, in order to cover that contingency, we must present a study for each one; so that if the Commission should decide that here is one that receives its supply of gas from a different source from the others and it should be treated as a separate unit, the information is in the record for passing on that and similarly with others.

Hearing Examiner Ewell: And your exhibit gives the increased cost as to each individual company—

Mr. Quarles: That is correct.

Hearing Examiner Ewell: —if so operated—

Mr. Quarles: That is correct.

Hearing Examiner Ewell: —that is separate.

Mr. Quarles: Yes, sir.

[1212] But now, coming now to Mr. Nowlin's legal suggestion which was that the first issue you hear anyhow is the

status of the gas companies in the present situation, whether they are now an integrated system or two or more systems.

If that is an issue and we understand that it is definitely an issue, there was a time when we had thought that perhaps Mr. Nowlin was prepared to concede that all of the eight gas companies constituted a single integrated system. He said Friday definitely that he was not making that concession. So we have now this issue and, in order to meet that issue which he insists is the first issue we must face, then it seems to me that it is essential that we produce these individual studies.

For that, I would simply refer to the definition of an integrated public utility system as applied to gas companies in Section 2(a)(29)(B), and I am quoting:

“As applied to gas utility companies a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system.”

And then it goes on.

With respect to the geographical location in order to determine whether these companies are so located and related that substantial economies may be effectuated by their being [1213] operated together, we must make the individual studies, and presenting it as we have will enable the Commission to make that determination and then proceed with the other parts of the case.

So that, on no possible theory can I see that the evidence that we are introducing with respect to separate operations is irrelevant. In fact, on no possible theory can I see how it could be omitted. So I urge on you the acceptance of the exhibit with respect to which you reserved your decision.

Hearing Examiner Ewell: Have you any further comment, Mr. Nowlin?

Mr. Nowlin: Mr. Examiner, I think there is some merit

to what Mr. Quarles has said with respect to the studies. However, I have some doubt as to the emphasis that has been placed upon these individual companies because it would seem to me that there is no question but that what some of these companies could constitute a single integrated system.

I think the part that has disturbed me is that the Commission's notice and order for hearing directs that that should be the first thing that we take up, whether or not these gas utility companies constitute one or more integrated systems.

So far we have not approached that subject at all except through the testimony of a couple of witnesses who said they did constitute a single integrated system. But the evidence [1214] has not been directed to that issue or in support of those conclusions by the witnesses.

The evidence thus far has been directed entirely towards establishment, it seems to me like there are eight single integrated systems. To that extent I think the presentation of the case has been somewhat confusing.

I think there is something to the effect that if any two of these eight cannot be together, you have to give the loss on each individual company.

That, to me, is remotely impossible or unlikely, that we have taken up a lot of time addressing the testimony towards eight systems rather than towards the question as to whether or not they have one system.

In other words, their witnesses' testimony is they have a single system but the evidence has gone to show they have eight systems.

If the evidence had been first directed toward the fact that they had one system they could be operated as a single unit and with substantial economies being accomplished, then they could have buttressed that in the event there were any changes to constitute more than one system

and they would have the evidence to support the conclusion in respect of the eight companies.

The testimony so far just has not been addressed to the notice in the first order for hearing. I assume that [1215] they are going to get around to that sooner or later, that they are going to try to establish that this is a single system and that there would be substantial losses in relating that single system to the electric system.

So far we have not had any evidence to that effect.

Mr. Quarles: The evidence that is now being contested and a very substantial part of all the evidence that has been introduced thus far bears directly on the question of whether there are economies in operating these gas companies in conjunction with the electric system and in conjunction with each other.

Hearing ExaminerEwell: Maybe I did not understand it.

But I understood that was the thrust of all this testimony. I mean all of these losses of economies were directed toward showing that if they were split up these losses would occur.

Mr. Quarles: Which evidence is intended to meet both issues, the first issue that Mr. Nowlin submits as the first issue to be determined and, secondly, as to the losses resulting from a severance in connection with this particular proceeding.

As to the order in which it has been presented and the emphasis that has been placed, I think that any two lawyers are apt to differ in their opinions about emphasis and order, but when you get to the substance of the thing which is now the [1216] question before you, this evidence is clearly relevant and our position is that it is necessary and, further, our position is that if we had come in and said we want to get a determination of the present status of these gas companies and a decision on that before we go any further, which is inconsistent with the general pro-

cedure and practice in this kind of a case, but if that had been our approach we would have introduced evidence right along the line that we have been introducing and are now offering.

Mr. Nowlin: Mr. Examiner, I have not objected to any of these exhibits that have come in that reflect the actual operating and statistical information. The only objections I have put in so far, except as to the relevancy of some of those matters, that is the consolidated taxes and service company losses, and whether or not the electric system loses substantial economies. The other exhibits that come in show factual material that will enable the Commission to reach a judgment.

The objection I had here is to the exhibit which is now in question, Exhibit No. 89, which shows on its face that it is severance of total insurance cost of the individual companies before severance and after severance. There is no indication here as to whether what the impact would be on this system of these companies were kept collectively together. That is the issue which we are supposed to have taken up first.

[1217] On consolidated tax return, there is no evidence there as to what effect the tax situation would be on these companies considered collectively rather than separately.

Mr. Quarles said he is going to put the evidence in, and I assume this thing will unfold later on, but we have gotten so deep into the situation so far in respect to treating these companies individually that I suspect we might as well go ahead and let them complete their case on the basis that he is going to put in some evidence later to show the effect on these companies collectively.

Hearing Examiner Ewell: Are you withdrawing the objection, then?

Mr. Nowlin: No, sir, I would still think what we ought

to do is mark these exhibits for identification until such time as he has connected them with his principal case.

Hearing Examiner Ewell: Do you have any objection to that?

Mr. Quarles: We feel that it is already connected up. We feel that this evidence is relevant as it stands.

Hearing Examiner Ewell: I am convinced it is relevant. I think the objection goes to the weight of it. How much weight is to be given is a matter that is for the Commission to decide.

Mr. Nowlin: Mr. Examiner, it is quite obvious if you look at the exhibit here, if these companies constitute a single integrated gas utility company, this exhibit has no [1218] relevancy whatever. In other words, these increased insurance costs will not occur. Neither will the consolidated tax—

Hearing Examiner Ewell: The Commission is going to decide whether they are or not.

Mr. Nowlin: It all depends on what the ultimate outcome is, whether they are relevant or not. If the Commission right now would say this is a single integrated gas system, these insurances here would not have any relevance whatever. So they show the losses on individual company basis.

Hearing Examiner Ewell: Suppose, for example, the Commission did not decide that. Suppose the Commission decided they were not an integrated system.

Mr. Nowlin: That is quite possible. I say it is inconceivable—

Hearing Examiner Ewell: Then that evidence might become relevant.

Mr. Nowlin: It is inconceivable to me that the Commission would decide some one, two, three, or four or some of these companies—I do not know how many of them—

would not constitute an integrated system. On their face they meet the definition of location.

The question is whether or not they can be operated collectively so as to effectuate substantial economies. There has been nothing that I see put in here that could show [1219] that these companies could collectively be operated and obtain substantial economies from a joint operation.

Hearing Examiner Ewell: I cannot see any prejudice to you or to the Division in letting it come in. After all, if it is irrelevant it is irrelevant and can be disregarded. I see no harm in it.

Mr. Nowlin: On that basis, Mr. Examiner, we could throw Webster's dictionary in here and it would make no difference.

Hearing Examiner Ewell: That is not the point. It does not go that far. These people indicated that they strenuously urge that this evidence is part of their case. They want to consider it.

Mr. Nowlin: All I have simply done is ask that it be marked for identification and wait until the exhibit is connected up with the main issue in the proceeding. I have not objected to it coming in. I asked that it be marked for identification. I am not objecting to it coming in now.

Mr. Quarles: Following that through, I suppose, would mean that you could not determine whether it could be admitted until we have gotten a determination by the Commission as to what constitutes an integrated system, whether all of these or seven of them or just how they would fall into place, and it is difficult for me to see how the Commission can decide that question without knowing what would be the losses to the [1220] individual company.

Take Norwood Gas, for example. Conceivably the Commission might say that should not be included with the other seven. In considering whether or not it should be included with the other seven, one of the important elements

would be how much loss of economy would there be for Norwood if it were cut loose alone.

Assuming that the Commission should decide that the other seven constitute one integrated system and Norwood another, then it is material what losses would be incurred by Norwood.

The same would apply to Wachusett or to any of the others.

And so it is definitely material to the basic determinations in order to have this evidence before the Commission and, in the second place, as ordinary administrative procedure where you have several issues and where you are using this approach of deferring cross-examination putting in the entire case in advance, I think it is perfectly normal for us to put in the evidence that would be applicable on any one of two or three definitely possible theories. These are not imaginary theories. It is definitely possible that the Commission might consider that this should be split seven and one or in some other combination. In any event, we must be covered on our evidence.

Hearing Examiner Ewell: On that point, I think Mr. [1221] Nowlin, in the course of the argument on Friday, said that the Commission might even order that the stock be distributed to various stockholders.

Mr. Nowlin: No, Mr. Examiner.

My point there was if an order should be issued against these companies by the Commission—

Hearing Examiner Ewell: I thought you made that statement. Maybe I misunderstood.

Mr. Nowlin: I am trying to correct any misunderstanding you might have.

The Commission has held on numerous times that the selection of a method to achieve compliance with an order was primarily in the hands of the management. They had wide latitude. The Commission would not do that, I do

not think. For management to select one method of disposing of it would be obviously unfair to the stockholders or the consumers.

That is a matter that has not anything to do with the present procedure as to how they are to be disposed of or when they are to be disposed of.

The only problem is how to get the facts as to whether they have to be disposed of or they can be kept.

I pointed out there are two or three things that could be done.

If they had an order against all the companies they could probably transfer them to a holding company and [1222] distribute the stock of the holding company to their stockholders or sell the stock of the holding company.

I assume this, if they think this is a single integrated system of gas utility companies, they must think there are substantial economies to be effected by them being operated together. It would seem to follow, then, if they were to dispose of them separately they would be injuring themselves. They would be dissipated—what economies and what values each one had.

That is demonstrated by these insurance figures here on Exhibit 89.

I doubt seriously—I did not get a chance to ask the witness—but I doubt seriously that these insurance losses or increased costs, rather, would occur if these companies were transferred to a separate holding company. I would think they would probably get somewhat the same coverage they have now. I do not know.

It is also possible that these consolidated tax losses would not occur, at least in the amount that they have established here, if these companies were transferred to a single holding company, where they could file consolidated returns. That is the thing that makes the many imponder-

ables in considering these companies at this time individually.

I repeat again I did not object to the relevancy of these exhibits. I asked that it be marked for identification [1223] and held off for offering in evidence until a later period, until they had connected this case up on the subsequent testimony on the status of these eight companies.

Hearing Examiner Ewell: Do you have any objection to that, Mr. Quarles?

Mr. Quarles: I would urge on you, sir, this is the same question that keeps coming up time after time. It applies not only to the exhibit but also applies to the oral testimony in places and it is definitely relevant. I think we must all recognize that it is relevant to this question of the present status of the gas companies.

Hearing Examiner Ewell: I think it has some general relevance. I think the objection goes to the weight of the testimony.

In view of your position, I am going to—

Mr. Nowlin: Mr. Examiner, I have not objected to the weight. I objected to it being received in evidence at this time.

Hearing Examiner Ewell: He promised to connect it up and supply the other evidence that you think is more cogent.

Mr. Nowlin: Why is it so important to the company? Why is this so vitally important to the company that this get into evidence?

Hearing Examiner Ewell: Mr. Quarles will have to [1224] answer that question.

Mr. Quarles: We are undertaking to present a total situation with all of the necessary facts to enable the Commission to determine the several issues. It might be said that no one piece of evidence that is offered is relevant alone and in vacuo. It is all a part of one total picture.

There seems to be no particular reason for holding up parts of it as against the other when at least, in our opinion, it is clearly relevant on its face and when the time of it is not terribly important now, but it is, I think, orderly to have the exhibits received as they are offered if their relevance is admitted and I gather that Mr. Nowlin is not questioning the relevance of this.

We have assured him that we would present corresponding information with respect to losses that would be incurred if we assume all eight companies together.

He assumes that the losses would not be anything like this.

It is better to wait and see what the actual figures show on that.

The same is true with respect to the result of consolidated tax returns. There will be specific evidence and the people that present it will be available for cross-examination.

[1225] Mr. Nowlin: That is very important, Mr. Examiner, that you not put the staff at a considerable disadvantage.

In the first place, the evidence so far has not been responsive to the Commission's notice or order for hearing.

The witnesses have stated that this constitutes a single integrated system. If they put on that evidence in support of that contention and then come in and say, "We have made this further study in case the Commission does not agree with us here would be the impact on these companies separately"—we may never have gotten to that point—if they put on the evidence in response to the notice and order for hearing as to whether or not they constitute a single integrated system it may have been they would have established that where there would not be any contest about it, and we would have no need to go into individual companies.

In any event, we are at a disadvantage of letting evidence come in here with respect to these eight individual companies which, in our opinion, is almost inconceivable that some of these companies could not be kept together, and then we are going to hear the case later as to whether or not they constitute a single integrated system.

Mr. Quarles: I submit, sir, that you are right now hearing the case as to whether or not they constitute a single integrated system and neither you nor the Commission [1226] could reach a conclusion on that without knowing what losses would be realized by cutting them loose one by one. In other words, facing this very first issue of determining their present status under Section 2(a)(29) (B) requires examination whether or not each of these companies could be operated singly without substantial losses and what would be the losses. That is the whole thrust of our present evidence.

We did not in our statement as to the order of presentation say that we were coming at it in this way because, as I did say at that time, we regarded the other as the major issue and that was the thing toward which we were primarily directing our attention.

But our evidence has gone in in just the order that would have been necessary if we were looking to that first issue of the present status. We are trying to complete that evidence now.

Mr. Nowlin: I repeat again the only objection I have made is as to this coming in evidence at this time. I still think they are out of order.

It may be marked for identification, and I have not heard any real reason yet why the company has any objection marking them for identification and then offering them after they have established their case.

Hearing Examiner Ewell: I asked Mr. Quarles whether they had any objection and each time I thought he quite

[1227] strenuously objected. At least he argued at some length to show why it ought to come in now.

Mr. Quarles: It is as to your Honor's discretion when you rule on the offer.

It is our feeling that no useful purpose is served by deferring the admission of evidence that is admittedly relevant or is so clearly relevant that the only question is as to the weight that should be given.

Hearing Examiner Ewell: The thing that bothers me most is that you conceded that this question of separate operation of each company is not a very realistic one.

Mr. Quarles: Not as to all eight separately but, as to individual companies, I certainly have not intended to concede or give any suggestion of an impression that we regarded it as unrealistic. We think it would be entirely realistic to consider the possibility. But whether it is or not, sir, before you can get a determination by the Commission of that fact the Commission must have evidence in the record on which it can be determined whether or not each of these gas utility companies is so located and so related to the others that substantial economies may be effectuated by its being operated jointly with the others.

You have to do that with each individual company before the Commission can determine the issue as Mr. Nowlin assumes that they will determine it. We have to have it in the [1228] record or the Commission cannot make that determination.

Hearing Examiner Ewell: You have additional evidence to present today and tomorrow, do you not?

Mr. Quarles: Yes, sir.

Hearing Examiner Ewell: Why can we not go on with the balance of the testimony then, and keep this matter under advisement.

Mr. Quarles: We can go ahead without it.

I was hoping that we could have a determination of this issue now so it would not be raised every time a question is asked relating to individual operation because it runs through quite a bit of the testimony that has already come in and some that will be coming in in the future.

The ruling on this specific—

Hearing Examiner Ewell: I have already indicated I am practically convinced that it ought to come in. I would allow it.

But in view of Mr. Nowlin's strenuous objection I hesitate to make a definitive ruling until it is absolutely necessary. If you can go on with other matters, perhaps it will appear in a clearer light maybe from additional testimony.

Mr. Quarles: I have said what I have to say on the subject, sir. I shall certainly not further urge it at this time.

Hearing Examiner Ewell: All right. Let's proceed, [1229] then.

I might add that the reason I hesitate about making a definite ruling right now is the fact I have in mind that it might greatly extend the hearing. If testimony of this kind is admitted and it has only slight relevance it might require the staff to go into great deal of cross-examination and all that sort of thing.

Mr. Quarles: Yes, sir. It was our thought that it was not going to extend the hearing at all, the timing of it. And, in any event, this was essential both for the determination by the Commission of the present status, which is the first issue, also, while, as I have said, we would not expect the Commission not to be able to find that certain of these companies as presently constituted could be an integrated system, there is also the distinct possibility that, when they are disposed of, they would be disposed of one at a time.

Mr. Nowlin takes the position that what happens to

them after they are disposed of or in disposition is immaterial. We take the different view of that. We think that it is material, but for the time being, we are looking just at the question of the relevance of this testimony on the two broad issues; one, the definition under Section 2(a)(29)(B) and the other, the bearing that it has on the losses on various possible combinations or individual companies on severance. But we can go ahead to other matters as you have suggested.

[1230] Hearing Examiner Ewell: I would like to ask Mr. Nowlin how much of a burden it would be to the staff if this were admitted at this time.

I would just like to have your opinion as to whether or not that is part of your objection. In other words, that it would lead up a blind alley as it were.

Mr. Nowlin: I imagine, Mr. Examiner, Ebasco's report has much of the statistical information in there that apparently this is an Ebasco study here that we are talking about, Exhibit No. 89—I imagine this whole report is couched in the same tenor.

The thing that I say would cause us concern is that we have not yet, after four days of hearings, come around to the issue in the proceeding: the first issue; that is, do these gas companies constitute a single integrated system? It may be if they approached the case from that viewpoint and established in the record evidence to support that, the staff might even concede that they had made a case, that these did constitute a single integrated system, therefore there would be no reason to take up the companies individually.

We did not have that opportunity and we have not yet an opportunity of determining whether or not they have established a case for the retention of these companies as a single integrated system or not. There has been no evidence directed towards that despite the fact that their two prin-

principal witnesses, [1231] the chief executive officers, have testified in their opinion they constitute a single system.

Hearing Examiner Ewell: Even if they concede or you concede it constitutes a single system, would you not still be faced with the question of economic operation or loss of economies?

Mr. Nowlin: But you relate those losses of economies—if they constitute a single integrated system, Mr. Examiner, then the loss of economies would be the single integrated gas system against the single electric system and not eight individual companies. It would be very conceivable if they had gone and addressed their evidence to the issue—as I said, I do not know, because we have not the facts in the record—the staff might be willing to concede and, if necessary, join the company in requesting the Commission for statement of tentative views that they constitute a single integrated system.

As it is now, we have gone for four days and have not had the evidence directed toward the principal issue in the case. It is the initial issue.

Mr. Quarles: Mr. Hearing Officer, even at the expense of repetition, there are just two things I would like to say, very briefly.

The first one is that we regard the evidence that we are now discussing as being essential to the very issue that Mr. [1232] Nowlin proposes as the first issue of the case, and that it had to be put in whether or not the staff conceded because the Commission must have material to support its findings that presently the gas companies are a single integrated system.

The second thing I would say is that although Mr. Nowlin might have had a different idea of the order of presentation and perhaps it might have been better than ours we do think that there is no obligation on us to take up the several issues raised by the order of notice in any

particular order and that if we present the necessary evidence to cover all of the issues so that when it comes before the Commission it is in a position to deal with all of them, that the order in which it has been presented is a matter that in all fairness might be left to us and, in any event, is not harmful to anybody's position.

The staff is not in a position of having to pass judgment on any of these things or to undertake any cross-examination or to take any position until the whole case is in.

Unless there are unexpected delays, the whole affirmative case will be in by some time tomorrow.

Hearing Examiner Ewell: I think we ought to proceed.

Mr. Vorenberg: Mr. Cahal?

Hearing Examiner Ewell: I am still reserving decision on the question.

[1233] Mr. Vorenberg: Mr. Cahal has not previously appeared, Mr. Examiner.

[1234] Whereupon,

ROBERT ROSS CAHAL, JR.

was called as a witness and, having been first duly sworn, was examined and testified as follows:

Hearing Examiner Ewell: Your full name, please?

The Witness: Robert Ross Cahal, Jr., C-a-h-a-l.

Direct Examination

By Mr. Vorenberg:

Q. Please state your address, Mr. Cahal. A. 76 Maple Drive, Great Neck, New York.

Q. Would you state your business connection at the present time. A. I am a marketing consultant in the Sales, Marketing and Public Relations Department of Ebasco Services, Incorporated.

Q. Mr. Cahal, please describe your educational and business background. A. I received a Bachelor of Business

Administration degree from Tulane University, New Orleans, Louisiana, in 1947, and a Master of Business Administration degree, majoring in marketing, in 1948 from Tulane. Subsequent to that I took post-graduate courses in marketing and public utility economics.

From 1948 to 1954 I was employed in the Sales Department of New Orleans Public Service Inc., a utility which serves the city of New Orleans, Louisiana, with electric, gas and transit service. For the first three years of my employment [1235] I was a residential sales representative. My duties included contacting residential customers to promote and sell electric and gas appliances and to handle service functions such as electric and gas service extensions, load analyses, bill inquiries, and the like.

After some 15 months of military service during the Korean War, I returned to New Orleans Public Service as a Sales Planner in the company's Sales Promotion Division. My duties in this position included sales planning, preparation of sales programs and campaigns, development of sales promotion materials and activities, sales training, market research, sales analysis, and area economic research. These duties covered residential, commercial, and industrial sales. I remained in this position until leaving New Orleans Public Service in 1954 to join Ebasco Services Inc.

Q. Would you describe your duties as a marketing consultant with Ebasco. A. I am one of a group of consultants providing advisory and investigative services to electric and gas utilities and to related enterprises throughout the United States and in other countries. The types of consulting work in which I have participated include: assistance to utilities in the planning and development of utility sales and customer relations programs; consultation on the preparation of sales promotional materials and activities; analysis and evaluation of sales [1236] results and

sales costs; planning, conducting and analyzing market surveys; evaluating markets for utility services as a basis for feasibility reports; forecasting electric and gas sales and revenues; analysis of utility sales organization structures and staffing; development and training of utility sales management personnel; and general economic studies.

Q. Are these functions performed on a regular, continuing basis? A. Yes, they are done continually for some twenty regular utility clients, and as special projects for other utilities and related enterprises, such as manufacturers of utilization equipment.

Q. And do these clients include both electric and gas utilities? A. Yes, electric, gas, and combination companies.

Q. Mr. Cahal, in the course of your duties have you worked closely with the electric and gas utility industries in general? A. Yes. I am a member of the Marketing Research Committee of the American Gas Association, the Sales Training and Personnel Committee of the Edison Electric Institute, and the Public Utilities Research Committee of the American Marketing Association. In addition, I am frequently requested to speak before electric and gas utility sales executives groups on subjects related to my fields of experience.

[1237] Q. Mr. Cahal, did you participate in the Ebasco studies of the effect of severance on the Massachusetts gas companies of the NEES system? A. Yes.

Q. Would you state your area of responsibility as a participant in the study. A. I was responsible for reviewing and evaluating the effects of severance on new business or sales functions as carried out in the individual companies, the NEES Gas Division, and NEPSCO, including sales objectives, activities, personnel, expenses, and results.

Q. Would you tell us briefly what you did in order to reach conclusions about the business development function

and the effects of severance on it. A. I visited the offices of the Gas Division and NEPSCO for the purpose of discussing the business development function with those who were responsible for the function at this level. I reviewed the organization and job descriptions of groups and personnel responsible for activities related to the business development function, in the Gas Division, NEPSCO, and the individual companies. I examined examples of advertising, sales plans and programs, and promotional materials. I analyzed statistical reports pertinent to sales results and sales costs.

Q. Did you actually visit the operating companies in [1238] the course of your investigation? A. Yes, I did. I visited all the gas companies—and the electric companies where they were operated in conjunction with the gas properties. This was done in order to view first-hand the sales operation and to interview personnel in these companies who were responsible for carrying out sales and business development activities.

Q. Were you the only Ebasco consultant to participate in the business development aspects of the study? A. No, I made the study in conjunction with Mr. John H. Coates, Senior Sales Consultant, who also made field investigations and worked with me in analyzing and evaluating the data.

Q. Would you describe the business development activities as they were generally carried out by the gas companies. A. In general each gas company carried out its sales activities in a similar manner. Some variations among the companies existed, but these were due to differences in company size and market conditions, or to various local problems and situations. Perhaps it will be helpful if I describe the sales activities of North Shore Gas Company in a little detail as an example of the general pattern. Its sales operations were more or less typical of the gas companies generally.

Q. Did North Shore Gas and Merrimack-Essex Electric [1239] have any joint sales personnel or promotional activities? A. No, they did not. The sales or business development activities of North Shore were carried on completely separate independent from those of the Merrimack-Essex Electric Company. Personnel were completely separate, except of course for personnel involved in accounting functions which might have been incidental to the sales function. The sales representatives themselves promoted and sold only gas and gas appliances; the electric company representatives sold only electric appliances.

Q. How about the use of joint facilities for the display and sale of appliances? A. When the offices of the North Shore Gas Company and Merrimack-Essex were in the same building both use the main floor of the building for display and sales purposes, but these areas were segregated between electric and gas appliances. North Shore had five display floor locations. Three of those were operated jointly with Merrimack-Essex and two were devoted exclusively to gas operations.

Q. Was this the pattern that generally prevailed in the other companies of the Gas Division? A. Yes, although some of the companies had no all-gas sales floors, because all the areas served were also served by a related electric company. All told in the Gas Division there were 26 sales floors operated by the eight companies which serve gas, and 9 of these were devoted exclusively to [1240] the sale of gas appliances.

Q. Was there any evidence that NEES management was holding back or failing to encourage the sales promotion efforts of either the electric companies or gas companies through restrictive policies or in any other way? A. No—quite the contrary. I saw no evidence that there were any restraints related to the fact that both electric and gas companies were a part of the NEES System. In fact,

everything pointed in the opposite direction. Both from an organizational and a policy point of view every effort is made to encourage aggressive and independent sales activities by the gas and electric companies.

Q. Would you describe the new business activities of the North Shore Gas Company. A. New residential business was developed primarily through appliance merchandising activities of the company, although there was a planned program for developing appliance and equipment sales through independent dealers and plumbing and heating contractors and in new home construction. Commercial, industrial and other classes of business were developed primarily by promoting sales of utilization equipment through independent equipment distributors.

Q. You say that the company promoted residential sales through "merchandising". Would you explain what that involved. A. It means the company sold appliances to the public [1241] and carried on the functions necessary to effecting the sale successfully; carrying on inventory of appliances, promoting the sale of appliances, financing the purchase, seeing that the appliance was installed in the customer's home, and providing any necessary servicing of the appliance thereafter.

Q. Is it normal for a gas utility to merchandise? A. Yes, according to an AGA survey, over 70 per cent of gas companies in the country do merchandise, and in New England virtually all of the gas companies merchandised in 1958.

Q. How was the business development function staffed in the North Shore Gas Company? A. The sales program of the company was under the direction of the Assistant Manager of the company, who also functioned as Sales Manager. He was responsible for the program to develop domestic, commercial, and industrial sales. Under him were eight domestic salesmen who sold gas appliances to

residential customers and to dealers, plumbers and heating contractors for installation on residential premises. These included two domestic salesmen who also managed branch stores in addition to selling appliances.

In addition to these eight salesmen there were four other representatives concerned with residential market development: two house-heating specialists who supported the domestic salesmen in the more technical aspects of selling house heating; [1242] a builder representative who contacted home builders to stimulate the acceptance of gas equipment in new homes and housing developments; and a home economist who supplemented direct selling efforts by conducting demonstrations of appliances in customers' homes and before consumer groups for the company and for dealers.

Q. Were these all the sales contact representatives in North Shore? A. No. In addition to these that I mentioned, who contacted the residential market, the company also had two representatives who contacted commercial and industrial customers to promote the use of gas equipment and to provide advice on gas utilization problems. There were also four clerks and stenographers who served the new business function. The local manager at the Gloucester office served as Dealer Representative for the entire company in addition to this other duties. He handled the activities of the Dealer Cooperative Program.

Q. In your opinion was this a reasonable staff for a gas company of this size to maintain for new business development? A. Yes, it was a reasonable staff. In the first place the job titles and functions were typical of a merchandising gas utility. Because load building depended on appliance sales it was necessary that there be a number of salesmen devoting [1243] their time to specifically selling these appliances. Their effectiveness could be enhanced by supporting personnel, such as house-heating specialists and

home economists. Because of the extremely competitive nature of the house-heating market with favorably priced oil, it was essential that each house-heating prospect be approached with care, utilizing accurate estimating and sizing procedures. House-heating specialists had the knowledge and experience and could devote the time to ensuring that this care was taken. Builder representatives were necessary to cope with the special sales problems involved in the new home market. Home economists have proven their value in both gas and electric utilities across the country.

Q. Was the number of sales personnel utilized by North Shore reasonable? A. Yes. They were justified by the size and nature of the market in which the company operated. For example, there were eight domestic salesmen for 31,313 domestic customers, or approximately 4,000 customers per salesman. Based on our studies of other gas utilities, this ratio was quite reasonable. Other personnel ratios were well within reason when compared with other utility practices across the country. There was one home economist for 31,313 customers. Two representatives were handling 1,800 nonresidential customers, or about one representative for every 900 customers.

[1244] Q. How did these personnel ratios for North Shore compare with other companies in the Gas Division? A. In general they were typical. Naturally each company had its own situation and market conditions which created different personnel needs. The number of domestic salesmen ranged from one in Norwood to 25 in Mystic Valley, but the ratio of customers to domestic salesmen ranged only from 3,000 per salesman in Central Massachusetts to 4,100 in Norwood. The smaller companies, such as Norwood, Central Massachusetts and Wachusett, did not have representatives calling on commercial and industrial customers full time. Also, Northampton and Lawrence did not have

home economists on their new business staffs; Wachusett had one on a part-time basis.

In Wachusett, Northampton and Norwood there was no sales manager; in these three companies the Vice President and General Manager was also responsible for sales management.

Q. But the staffing in these seven other companies appeared reasonable? A. Yes. It is essential that the size and nature of these sales staffs of an individual gas company be tailored to meet local situations and market conditions. Therefore, some differences will always be present, but overall the companies were quite consistent.

Q. What sales promotion activities were carried on by [1245] North Shore? A. North Shore carried on a consistent and aggressive advertising program which utilized newspaper advertising, radio advertising, direct mail advertising, truck and car cards and billboards. In addition, the Gas Division participated as a whole in advertising in Boston newspapers, through billboards, on radio and on television in cooperation with other gas companies in the Boston area. Also the Gas Division supported national advertising for gas and gas appliances in national magazines and network television carried out by the American Gas Association.

Q. How much did North Shore spend on advertising in 1958? A. Counting all company advertising in support of merchandising, promotion, and new business, and participation in AGA promotions and advertising, the company spent \$36,318.

Q. What other promotion activities did the company conduct? A. It maintained a series of sales campaigns for its own salesmen in which bonuses were given for sales of specific appliances featured in these campaigns. These bonuses were in addition to the regular salary and commission paid these salesmen. It had a builder program which

featured allowances and bonuses to home builders for installing gas appliances and financial support of advertising for these [1246] homes. It had an organized program of cooperation with independent appliance dealers, plumbers, and heating contractors which featured bonuses to these dealers and their salesmen for selling gas appliances, and financial support of advertising of gas appliances by the dealers. There were other promotional activities which were used to supplement and support the sales program, such as special displays and exhibits, consumer contests, and the like.

Q. Did your investigation enable you to draw any conclusions about these activities? A. Yes. They showed North Shore to be an aggressive, sales-minded gas utility. The examples of advertising that I saw were hard-hitting, gas-centered ads. The sales campaigns covered every possible application for gas in homes; heating, water heating, cooking, clothes drying, refrigeration, and incineration. They had good seasonal and load-building balance.

The promotion activities were aimed at stimulating consumer and sales ally interest in gas as the preferred household fuel as well as creating sales of appliances. Every element used by North Shore was a recognized, well-proven sales promotion device in the gas utility industry.

Q. Would you comment on the incentives which are provided to company and other salesmen. A. The incentive program used by North Shore and the other gas companies was characteristic of aggressive selling. [1247] A large component of the average salesman's annual earnings was gained by attaining incentive sales goals. On the average, only about a third of annual earnings came from salary; about a third came from commissions on sales volume; and the remaining third came from load building and sales bonuses. Also the type and amount of incentives given to sales allies for sales of gas appliances were indicative of an

aggressive sales effort. Allowances on installation were also offered to homeowners.

Q. You say that these incentives were characteristic of aggressive selling. Would you amplify that. A. I would be glad to. If a gas or electric utility wants to effectively develop the market for its services, it must be willing to invest wisely and adequately in that development. Allowances and incentives have been found by sales-minded utilities to be a prudent and effective way of adding load, when implemented by direct selling effort and supported by promotion and advertising. Sales-minded utilities who are in tough competitive situations have followed this course.

Q. Were the NEES gas companies' expenditures for advertising and sales promotion activities reasonable, in your opinion? A. They were.

Q. Mr. Cahal, did you observe any difference in the promotion of gas sales in areas where the NEES gas company [1248] was competing with a NEES electric company, compared to the promotion where NEES did not serve electricity? A. No, I did not. As I have pointed out, the promotional plans and activities were consistent throughout the system. Within the same gas service area which included a NEES electric service area and another company's or municipal service area, there was no noticeable difference. For example, Salem, Beverly and Gloucester in North Shore's service area, were served by Merrimack-Essex while Peabody and Danvers were served by municipal systems. North Shore maintained the same sales program, including allowances and incentives, and has basically the same coverage of salesmen in the Merrimack-Essex area as it did in the municipal areas.

Q. Were the sales promotion activities which you described developed and carried out by North Shore personnel? A. Not all of them. Some were carried out largely by North Shore, but the company depended heavily on the

Gas Division for sales and promotional assistance. As a rule those activities which required implementation by local manpower, such as the builder program, the dealer program, and home service activities were handled locally, but they were planned by the Gas Division.

Q. What sales assistance did the Gas Division provide to North Shore? A. Practically all of the sales planning was done by [1249] Gas Division personnel. This included the scheduling, planning and design of sales campaigns. It included the formulation of special sales programs, such as the ones for builders and dealers. The Gas Division personnel were largely responsible for the design of incentive plans, such as the bonuses paid to salesmen; the design and production of promotional materials; and the creation, production and placing of advertising, which was done largely through the Gas Division's advertising agency. The Gas Division handled the participation in regional and national advertising and promotion programs. The Gas Division coordinated group promotions, such as area-wide consumer contests. The Gas Division was responsible for testing and evaluating appliances and equipment which were to be sold by the gas companies.

Technical assistance on sales and utilization problems, such as advise on engineered applications to commercial and industrial customers, was given; as were advice and consultation on sales organization, staffing and management of sales personnel.

Gas Division personnel also prepared analyses of sales results and sales costs which permitted local management to evaluate the effectiveness and deficiencies in their local sales efforts.

Q. How were the advertising and sales promotion costs distributed among the companies? [1250] A. The agency billed each company directly. Space costs attendant to individual company newspaper and radio advertising were billed to the companies on the basis of actual costs of such

space or air time in the media used. Preparation and production costs were allocated in proportion to the cost of space. Cooperative advertising, such as that with the Boston area gas companies and AGA national advertising, was allocated to individual companies on the basis of customers.

Q. Did the NEES gas companies receive assistance from each other? A. The smaller gas companies relied on the larger ones, especially Mystic Valley, for assistance in dealing with special sales problems to large-use customers. For example, Mystic Valley's commercial and industrial sales section had personnel who were able to help in selling technical applications to large industrial or commercial customers.

Q. In your opinion, were the NEES gas companies' business development activities producing satisfactory results? A. Yes, they were, especially when results are considered in light of the competitive and market conditions which existed in the service areas.

Q. Would you describe these conditions. A. Yes, these companies serve a highly competitive area. [1251] The relative costs of gas and oil in the region were extremely close. Aggravating this situation in the several areas was the fact that the oil dealers were relatively large and they were well organized. As a result they could maintain a full-scale aggressive sales program to exploit their already dominant position in the house-heating market. Because of oil's entrenched position, new homes were the most attractive market for gas house heating. Generally the NEES gas areas were not blessed with much growth in new residential construction.

Looking again at North Shore, for example, Salem, which accounted for the largest number of meters, was an old community with practically no new growth. Gloucester was a stable community with a good proportion of seasonal

residents. Beverly, Peabody, and Danvers were growing but they were small in relation to the total company service area. The little residential growth that existed had been offset by the loss of residences in Salem due to the redevelopment of the inner part of the city. As a consequence, North Shore had not experienced any growth in number of customers, and future growth would appear rather small. Furthermore, there is no sizable industrial or commercial market potential.

Q. You said that sales results were satisfactory. What is the basis for this statement, referring first to North Shore by way of example? A. In spite of the competitive and market conditions, [1252] North Shore had managed to maintain a record of sales growth. In 1958 total Mcf sales were 14.6 per cent higher than they were in 1957. Increases were made in all segments of the market: domestic sales increased 16.2 per cent; commercial sales increased 13.8 per cent; and industrial sales increased 6.7 per cent.

Q. Has this sales record been maintained over the years? A. In general, sales had been increasing, although the annual percentage growth rates had not always matched those registered in 1958. One measure of growth could be found in average use per domestic customer. In 1952 the average annual use per domestic customer in North Shore's area was 14.5 Mcf. In 1958 average use was 32.2 Mcf. This change represented an average annual increase of 14.2 per cent between 1952 and 1958.

Q. How did this compare with other gas companies in Massachusetts? A. The percentage increase was higher than for Massachusetts and New England as a whole. The annual percentage increase in average use between 1952 and 1958 in Massachusetts averaged 13.4 per cent, and in New England 13.5 per cent. And North Shore's rate of increase compared more favorably with increases attained in the metropolitan area of Boston.

Q. How did other companies in the Gas Division compare [1253] with these 1952-1958 increases in average use per customer? A. Five of them were well above Massachusetts and New England growth rates. Mystic Valley and Lynn were below. The Gas Division as a whole averaged 13.7 per cent per year.

Q. Did you note any other indicator of adequate sales results for North Shore? A. Yes, it is important to compare sales results with the costs of achieving these results. In 1958, North Shore's total sales expense equalled \$6.19 per customer. Based on sales of appliances and equipment to all customers, the company estimated that it added \$10.98 of annual revenue for each customer through these sales activities. This meant that it was able to bring in \$1.77 of annual revenue for each dollar of sales expense.

A general rule-of-thumb in the utility industry is that one dollar of sales expense should produce at least one dollar of annual revenue, so a ratio of \$1.77 was quite reasonable. All the other gas companies in the Gas Division maintained their ratios well above one to one.

Q. Did you analyze the effects of severance on the new business aspects of the gas operation? A. Yes.

Q. What would be the effect of severance on the sales efforts of the gas companies? A. Present sales efforts would be little changed by [1254] the severance of the gas companies from the NEES system.

Q. What is the reason for this opinion? A. In establishing the pro forma sales organization we endeavored to maintain the same kind of aggressive sales effort that characterized the former organization. The gas companies had and have complete freedom in sales activities. They can and do promote any application for gas service aggressively. There is not the slightest indication that their sales efforts are restricted other than by the limitations of sound sales and marketing practice.

Furthermore, results will depend more on market conditions than on the conditions of severance. Because of the conditions of the market, the gas companies are primarily concerned with the market for space heating as a source of future load growth.

In the areas served by NEES gas companies it was estimated that more than 75 per cent of the ranges and 50 per cent of the water heaters were gas, but gas served no more than an estimated 20 per cent of the house heating installations. Therefore, the greatest potential for further sales increases lay in acquiring a greater share of the house heating market where gas competed primarily with oil.

Q. Are these the only factors to consider in appraising the effects of severance on sales results? A. No. Results may be actually hurt by severance [1255] because the small independent gas companies would not be able to develop and carry out for themselves the kind of sales effort that is presently being developed.

Q. You have testified that the sales operations of the local electric and gas companies were carried on independently of one another. A. Yes, that is correct.

Q. Then would the number of personnel be essentially the same after severance as it was in 1958? A. This is correct as far as field and clerical personnel are concerned. Their number and function would be essentially unchanged. But the individual companies would have to provide for themselves some of the sales planning and promotion services which were provided by the Gas Division.

Q. What kind of personnel would be required? A. It would vary with the size of the company. In the case of the North Shore, for example, it would mean having a full-time sales manager rather than the services of the assistant manager. This sales manager would have to have much broader responsibilities and scope than at present.

Q. What would this mean in terms of cost to North Shore?

A. It would mean very little more since most of the sales manager's salary would be offset by eliminating allocations to new business development of salaries in the Gas Division and of company personnel who charged part of their time to new [1256] business.

Q. Therefore, the costs of maintaining the new business development activities under the pro forma set-up would be only slightly higher than it was in 1958? A. Yes, but this assumes that in the area of sales promotion materials and advertising the company would not increase its expenditures for advertising and sales promotion which it would have to do to maintain the same caliber and amount of advertising it used.

Q. Would you explain why it would have to increase its advertising expenses to maintain the present caliber?

A. Most of the sales promotion materials and advertising were designed, produced, and, in the case of advertising placed by the Gas Division for the individual companies largely through the advertising agency. The economics of sales promotion and advertising production are such that a given amount of such material can be produced almost as cheaply for a group as it can for one individual company. This is because the bulk of the costs are in designing the material and preparing it for production. Once this has been done for one company, the additional costs of producing material for more companies is quite nominal.

Q. Would you give us an example? A. If it cost \$11,000 to prepare and produce newspaper mats for eight companies during the year, it would cost [1257] approximately \$10,500 to produce the same advertising for one company alone. The difference of \$500 being the cost of producing additional mats.

Q. Would a small independent gas company be able to afford such an expenditure? A. No, and among these companies, none—except perhaps Mystic Valley—could justify

having an advertising agency for the amount they could spend.

Q. Would this affect the quality of the advertising produced? A. Naturally it would. No one company could afford to have an advertising specialist or personnel with skills in advertising such as can be found in an agency, or in the advertising department of a large utility.

Q. Would this apply to other services provided by the Gas Division? A. Yes, it would apply to such important functions as sales programming, sales analyses and research, appliance testing, and the market analysis. These are the kind of functions that are beyond the reach of small companies. Perhaps, even more important, although less tangible, is the important role of leadership played by the Gas Division.

By coordinating the several companies into one team and providing that group with new promotion ideas, the Gas Division can inject a quality of aggressiveness into the sales [1258] effort. This in turn can produce a sustained and consistent promotional effort which is essential to continued sales growth.

Also, the Gas Division can keep full time surveillance over the sales program, measuring progress and noting deficiencies. Under a severed set-up, it is unlikely that the officer responsible for sales promotion would, along with his other duties, have the time to do the detailed planning and analysis that the present set-up affords each company.

Q. Are there any other aspects of severance on which you would like to comment? A. There is one. It is an accepted fact that when a utility is forced to economize that sales promotion expenses are the first to feel the pinch. This is not usually the wisest step to take, but it happens because sales promotion is thought to be, mistakenly in my opinion, expendable, and can be cut back without affecting services immediately. If, because of severance these gas

companies were forced to curtail operating expenses, it is likely that sales promotion expenses would be cut back first and the long-term financial integrity of the companies would be jeopardized by inadequate revenue growth.

Q. Mr. Cahal, you have discussed at some length the business development functions in the gas companies and the effect of severance thereupon. You indicated that you also investigated the business development functions of NEPSCO and the affected electric companies. You have shown that the gas [1259] companies' position as part of the NEES system imposes no limitation on its promotional program. Just so the record will be clear as to whether the same is true as far as electric sales promotion is concerned, would you summarize your findings of this investigation?

Mr. Nowlin: Mr. Examiner, I am going to object to that on the grounds that the impact on the electric system is not relevant to the issues in this proceeding.

Hearing Examiner Ewell: Read the question please.

(The question was read by the reporter.)

Hearing Examiner Ewell: What do you say to that?

Mr. Vorenberg: I am not clear in my mind as to the basis of Mr. Nowlin's objection.

If his objection is based on the assumption that we are trying here to show loss of economies to the electric side, that is not the purpose of my question.

If it were, I understand that we had a ruling on that last week.

The purpose of this question is: As I understand it, one of the purposes of Public Utility Holding Company Act was to avoid the problems of the sales efforts of one part of the utility business being sacrificed or played down for the benefit of the other. We have tried to present through Mr. Cahal's testimony and through the testimony of others the picture on the gas side, the gas promotional activities [1260] are completely independent.

It seems to me quite relevant to show, and we do not intend to do more than get this into the record and move on, that the same is true on the electric side, that the electric sales promotion activities are not playing second fiddle to the gas. It seems to me a small point but one that should be clear for the record.

Mr. Nowlin: that is the purpose of the question, then I have no objection.

As I understood the question, again, it is an attempt to show there is an adverse effect on the electric system.

Hearing Examiner Ewell: He said that is the purpose. So I think we ought to accept it.

I will allow it.

Mr. Vorenberg: That is the purpose, your Honor, of the question.

Mr. Nowlin: I will withdraw my objection to this question.

The Witness: Yes, the electric companies in the NEES system had a common approach to business development, that is, the sales activities of each one were similar in methods, policies and practices to the others. The planning, programming, and the preparation of promotional support was handled by the sales staff of NEPSCO. The implementations [1261] of the plans and programs was in the hands of the individual companies.

[1262] New residential business was developed primarily through appliance merchandising with additional emphasis on getting acceptance for electrical appliances in new homes using builder contact representatives.

Commercial and industrial classes of business were developed primarily by promoting sales of utilization equipment through independent equipment distributors. Because of the nature of the market the electrical companies placed more emphasis on the non-residential market than did the gas companies. This was probably the major difference

between the two sales organizations. Staffing and promotional support were comparable.

Q. You have testified that the gas sales program was not restricted by the gas companies' relationship to the NEES electric companies. Was there any indication that electric sales development was restrained by their association with the gas companies? A. No. On the contrary. The electric companies were pursuing a sales program and utilizing promotional methods that were characteristic of straight electric utilities.

For example, in their promotional programs the companies emphasized those domestic load building applications which are directly competitive with gas, namely cooking, water heating, and clothes dryers. In 1958, the [1263] NEES electric companies began to promote the all-electric home which includes electric space heating, in short, a home without any other fuel or energy source but electricity.

Furthermore, NEES, like many other electric companies has put in a rate aimed at developing the market for electric space heating. Other electric companies in Massachusetts which serve in or are contiguous to NEES gas service areas, such as Boston Edison and Western Massachusetts Electric Company, have put in promotional rates for electric space heating.

Mr. Nowlin: Would you mind explaining what you mean by electric space heating?

The Witness: There are several types of equipment used, but basically it means to heat the house with electricity. There is no other source of fuel.

Mr. Nowlin: Does that mean the heat pump?

The Witness: That does not apply too much in the north. It is mostly baseboard heating, with heat by radiant heat from wall units and baseboard units.

Mr. Nowlin: Thank you.

By Mr. Vorenberg:

Q. Mr. Cahal, I assume from what you said that gas severance would have no affect on the business development activities of the electric companies.

[1264] A. That is right. None at all. The activities, as I have mentioned, are completely separate. The NEPSCO sales staff charges only a negligible amount of time to Gas Companies; therefore there would be no personnel affected and practically no expense to be absorbed by the electric companies.

Q. Mr. Cahal, would you briefly summarize your conclusions about the business development function and the effects of severance on it. A. Yes. The business development functions of the electric and gas companies were completely independent and separate from one another. There appeared to be no restraint on the sales activities of either due to their corporate relationship. The sales activities of each were conducted in a manner characteristic of "straight" gas and electric companies. The staff and expenditures of the business development functions were adequate and reasonable in light of sound utility practice.

Furthermore the new business results being attained were satisfactory in view of the highly competitive nature of the service areas.

It can also be concluded that sales results would not be improved by gas severance, because sales activities are already separate, both gas and electric companies were taking reasonable measures to develop their [1265] markets.

On the other hand, the small independent gas company would not be able to apply the same specialized skills to sales development as the coordinated pool of resources now affords. While the impact of this might not manifest itself immediately, it would be bound to affect the long-term sales outlook of these companies. Especially since they would

be facing the well organized sales effort of a large electric system just beginning to gain momentum for the all- electric living concept.

Mr. Vorenberg: Your Honor, I have no further questions from Mr. Cahal, and request that he be excused subject to recall at a later time.

Hearing Examiner Ewell: Very well.

Do you have any clarifying questions at this time, Mr. Nowlin?

Mr. Nowlin: Mr. Cahal, I think in the course of your direct testimony you spoke of electric companies promoting sales of the NEES system. What electric companies did you have in mind?

The Witness: Within the NEES system or without?

Mr. Nowlin: The companies—as I understand it, you said some of the electric companies in the NEES system are promoting space heating.

The Witness: All of them are promoting electric [1266] space heating.

Mr. Nowlin: Do they have any special rates for electric space heating?

The Witness: They recently had a rate approved for consideration in the use of electric space heating.

Mr. Nowlin: Is the rate the same for all the electric companies?

The Witness: I am not sure. I don't know.

Mr. Nowlin: Do you know how many installations have been made?

The Witness: I have seen the figure. I don't know whether I can recall it accurately or not. I would say there might—on the NEES lines there probably would be two or three hundred. That is trying to recall the figure that I have available to me.

Hearing Examiner Ewell: Are the rates competitive with gas?

The Witness: Well, it depends on how you look at it. I would say they aren't directly competitive on a cost basis. However, there are a lot of factors that have entered into this, where the electric utilities by and large have approached this problem with a very careful engineering of the system. Therefore, they have, for example, put in more insulation than you would ordinarily find in a conventional system. In this way, they have [1267] reduced the total cost of heating the house to a position where, if it is not strictly competitive, cost-wise, at least it puts it in the realm of what they choose to call cadillac heating. That is, that some people would pay more for this different type of heating.

Mr. Nowlin: As I understand it, then, the development of the electric space heating is fairly new?

The Witness: It is fairly new in the northeast, particularly. Electric space heating, including heat pumps, have been installed for some years, and in certain areas of the country, where electric rates have been traditionally low, such as in the Pacific Northwest, where the rate situation is greatly different, they have had—those companies out there have had maybe 10 or 12 percent of their customers using electric space heating for many years. In some areas it goes even higher than that.

Mr. Nowlin: That is all I have, Mr. Examiner.

Hearing Examiner Ewell: All right. The witness is excused subject to recall.

(Witness temporarily excused.)

Mr. Quarles: Mr. Examiner, would this be a good time for a short recess?

Hearing Examiner Ewell: I believe so, yes.

(Brief recess)

[1268] Hearing Examiner Ewell: The hearing will be in order.

Mr. Vorenberg: Mr. Johnson.

Mr. Johnson has not previously appeared, Your Honor.

Whereupon,

THOMAS J. JOHNSON, JR.

was called as a witness and, after being first duly sworn, was examined and testified as follows:

Hearing Examiner Ewell: Your full name, sir?

The Witness: Thomas J. Johnson, Jr.

Direct Examination

By Mr. Vorenberg:

Q. Mr. Johnson, would you state your business address?

A. My name is Thomas J. Johnson, Jr. My business address is 2 Rector Street, New York.

Q. Would you state your business connection at the present time? A. I am Assistant Manager of the Accounting and Management Control Department of Ebasco Services Incorporated.

Q. What is your educational background? A. In 1939 I received a Bachelor of Science degree in Business Administration from Louisiana State University.

Q. Will you please state your business experience? A. From 1939 to 1952 I was employed by the Public [1269] Service Electric and Gas Company of Newark, New Jersey. I was employed by Public Service in 1939 for a two and one half year training program which covered all phases of utility operations. Upon completion of the training course I performed various work assignments in the general office of the company and was progressively promoted until I became the Assistant Manager of the Elizabeth, New Jersey commercial office. In this position I was responsible for accounting, sales and customer activities in an area serving approximately 125,000 customers. From 1941 to 1945 I was a member of the Armed Forces. I enlisted in

grade of private and was released from active duty in grade of Major in the Finance Department U.S. Army. I served both in this country and overseas.

In 1953 I was employed by Ebasco Services Incorporated in the Accounting and Management Control Department. Progressively I have been a Consultant, Senior Consultant, Principal Accounting Consultant and recently promoted to Assistant Manager of the Accounting and Management Control Department. During my employment with Ebasco I have been engaged primarily with electric and gas utilities in all phases of treasury and accounting work.

Recent assignments have included planning and supervising the reorganization of all customer billing and accounting, customer service, and credit and collection [1270] functions and procedures for a large metropolitan utility; installation and mechanization of customer and general accounting systems for a medium sized natural gas company; design and installation of accounting procedures for newly organized natural gas companies; development of organization, installation of accounting procedures and training of accounting personnel for foreign utility; and review of commercial activities for improvements of a large decentralized eastern utility.

In my present position I am responsible for planning, coordinating and reviewing the work of staff members of the Accounting and Management Control Department.

Q. Mr. Johnson, did you participate in the study of the effect of severance of the Massachusetts gas companies from the NEES System? A. Yes, I did.

Q. What was your part in the study? A. It was my responsibility to analyze the treasury and accounting organization and its policies, practices and procedures; to determine the effect severance would have on the existing treasury and accounting organization; and to study the

accounting organizational requirements of the gas and electric companies in the event of severance.

Q. How did you go about your work? A. Initially I studied the NEES System organization, [1271] including NEES itself, NEPSCO., the Gas Division, and the affiliated electric and gas operating companies. During the course of this phase of my work I made several field trips during which I studied the treasury and accounting organization and functions and became generally familiar with the methods of operation, procedures, facilities and personnel requirements.

Q. After obtaining this background, how did you then proceed? A. I requested and obtained all data necessary to properly analyze the treasury and accounting organization and functions as they were being conducted as of January 1, 1959.

Q. Could you please tell us the type of data you obtained? A. Yes. It included information concerning existing personnel requirements, payroll analyses, union contracts, job titles, job duties, salary scales, accounting policies, procedures and instructions, combination electric and gas accounting activities, number and locations of field accounting offices and their functions, and other related material.

I asked for and received certain customer accounting statistical data concerning number of customers served, customer bills, meters in service, meter reading, [1272] customer orders, customer payments, field and telephone collection calls, security deposits handled and other related data.

Data concerning general and stores accounting included: number of accounts payable vouchers, journal vouchers transportation tickets, material issue receipts, materials received reports, work orders issued, weekly time sheets, monthly time sheets, labor distribution items, periodic operating and financial reports, reports to regulatory

bodies and other related general and stores accounting activities.

Q. What did you do with this data? A. First I studied and analyzed the data to familiarize myself with the NEES System operations and determine if, in my opinion, the work was carried on effectively. Extent of combination of electric and gas activities, work volumes, union agreements, number of field locations, methods of operation and other related data were reviewed for this purpose as well as for the guidance they would provide in considering the treasury and accounting organizational structures which would be necessary for the independent gas companies in the event of severance. Also this data was essential in determining the effect on personnel requirements of affiliated electric companies affected by elimination of the combination electric and gas activities.

[1273] Q. Other than collect and analyze this data, what else did you do? A. Again I went to the field accounting offices and studied and analyzed the work. During these visits I discussed procedures, job duties and work performance with administrative and supervisory personnel and frequently discussed job duties with employees.

Often I requested and obtained additional information other than that initially requested. During these observations and discussions I paid particular attention to combination electric and gas accounting activities. In the process I also satisfied myself that the information initially submitted to me was correct.

Frequently I discussed the possibility of severance with administrative and supervisory personnel and obtained their views as to the impact this would have on personnel requirements. The information received from these discussions was valuable since the administrative and supervisory personnel had many years of service in the NEES System and were thoroughly familiar with the area served

and the detail of the accounting functions as well as the work performance of employees under their supervision.

Q. Now then, Mr. Johnson, would you please tell us how the local treasury and accounting functions were [1274] organized? A. As of January 1, 1959, the local treasury and accounting organization was divided into six districts. Each district was under the general supervision of a Treasurer or an Assistant Treasurer. These officers were referred to as Treasury Representatives. The Treasury Representatives were responsible to the Treasurer. Each of the six treasury districts maintained headquarters at a central point convenient to the affiliated companies under their respective jurisdiction.

The local treasury and accounting organizations were responsible for general, customer and stores accounting activities for the affiliated gas or electric companies in their areas. Personnel assigned to the various treasury districts, performed the general, customer and stores accounting work for the electric and gas companies of the NEES System.

Mr. Hanson, who was Treasurer of all affiliates excepting Lynn Gas and Electric Company, Narragansett Electric Company, Mystic Power Company and Granite State Electric Company, was responsible for temporary and permanent financing, relationships with security holders and dealers, special accounting problems and studies, systems and methods activities, internal auditing, tax and insurance matters and other related activities.

The New England Power Service Company provided [1275] assistance in carrying out these functions. Mr. Hanson also had the benefit of advice from other top NEES management. Services of NEPSCO were billed to the affiliated companies at cost. The NEES advice was given without charge.

Payroll costs of personnel of the district treasury organ-

izations were allocated to the respective affiliated companies based on work load. The work load was determined by an analysis of the number of customers served, gross revenue, number of meters or other appropriate basis. For the most part, these personnel were assigned as full, and in some cases, as part time employees of the affiliated companies. In some instances, the companies billed each other for services performed.

Q. You mentioned that there were six district treasury organizations. Did you investigate each of these organization? A. Yes, I investigated all six districts but found that only four of the districts involved the eight Massachusetts gas companies in the severance study. I therefore concentrated my work on these four districts.

Q. What districts were they? A. The Central District, which was under the supervision of the Assistant Treasurer based at Worcester. This district performed the accounting work for Worcester County Electric Company, Northampton Electric Lighting Company, [1276] Northern Berkshire Electric Company, Southern Berkshire Power & Electric Company, Central Massachusetts Gas Company, Northampton Gas Light Company and Wachusett Gas Company.

The second district, known as the Northeastern District, was under the supervision of an Assistant Treasurer based at Malden. The affiliated companies in this district included Merrimack-Essex Electric Company, Suburban Electric Company, Lawrence Gas Company, Mystic Valley Gas Company and North Shore Gas Company.

A third district called the Southeastern District Treasury Organization was under the supervision of an Assistant Treasurer, based at Quincy and included Quincy Electric Company, Weymouth Light and Power Company and Norwood Gas Company.

The fourth district served the Lynn area and was under the supervision of the Treasurer of Lynn, who was located

in Lynn. This district served the Lynn Gas and Electric Company. I think I should mention that the Lynn District was rather different from the other districts in that it served a combination electric and gas utility. Lynn Gas and Electric Company had been recently acquired by the NEES System and therefore the treasury and accounting activities had not been fully absorbed into the NEES System.

Q. How did these treasury districts function? A. Personnel of the various districts performed the [1277] general, customer and stores accounting functions for the affiliated companies within their respective district.

Q. What did these accounting functions consist of? A. The general accounting functions included maintenance of detailed and general ledgers, payroll, stores accounting, construction and plant accounting, accounts payable, preparation of periodic financial and operating reports for management and regulatory bodies, and other related activities. Customer accounting functions included meter reading, customer billing, customer accounting, cashiering, credit and collection work, customer service, customer relations and other related activities. Stores activities included the issuance and receipt of stores items, pricing and maintenance of inventory control records.

Q. Were these accounting functions performed on a joint or combination basis among the affiliated electric and gas companies? A. Yes, to a large extent they were. The District Treasury Organizations provided joint administration and supervision over general, customer and stores accounting activities for both electric and gas companies in many areas. In common areas, served by affiliated gas and electric companies, practically all customer accounting functions were done on a joint basis. They included meter reading, accounts receivable, cashiering, customer service, customer [1278] relations and credit and collection work.

Customer billing was done in several different ways depending upon volume and location of the company. Some of the companies used punched card equipment at a centralized machine installation. Others used key driven equipment at a centralized customer billing center. Some of the smaller companies performed their own billing in the field. The same customer bill addressing media, regardless of whether it was an addressograph plate or punched card, was used to address customer gas and electric bills.

Customer Accounts Receivable Records were maintained jointly at field offices where electric and gas was served in a common area by affiliated companies. Meter reading, service location, customer credit history, and other customer records were also maintained on a combination basis in the field locations serving both electric and gas in a common area.

Q. Mr. Johnson, would you please describe in greater detail the methods used to prepare customer bills? A. Yes. Residential and small commercial and industrial accounts, both electric and gas, were billed bi-monthly. Large commercial and industrial electric and gas accounts were billed monthly. Residential gas heating customers were encouraged to use the budget plan method of payment and given a coupon book to make monthly payments. [1279] Their bimonthly bill was then in effect simply a statement of gas service used and showed the status of the account. By status, I mean the debit or credit balance and current usage.

Residential gas heating customers that were not on the budget plan received service bills bimonthly. Mystic Valley Gas Company customer bills were prepared on punched card equipment at the machine center in Malden. This center also prepared customer bills for North Shore Gas Company, Suburban Electric Company and those bills of Merrimack-Essex Electric in the Beverly-Salem and

Gloucester areas which were also served gas by North Shore Gas Company. Separate electric and separate gas bills were prepared for all customers. Lawrence Gas Company bills were prepared on key driven equipment at Lawrence. Merrimack-Essex Electric customer bills for customers in the common area of Lawrence Gas were also prepared on key driven equipment at Lawrence.

Central Massachusetts Gas Company, Wachusett Gas Company and Worcester County Electric Company customer bills were prepared in Worcester at a centralized billing center utilizing key driven equipment. Northampton Gas Light Company and Northampton Electric Lighting Company prepared customer bills on key driven equipment at Northampton.

Norwood Gas Company prepared its bills on key [1280] driven equipment at Norwood. Lynn Gas and Electric Company prepared its customer gas and electric bills on punched card equipment at Lynn.

Since Lynn was a combination company at the time of our study, a single bill was prepared for customers using both electric and gas service. Because of its recent acquisition meters were read and billed monthly.

Q. During the course of your work, did you observe operations at these various centers? A. Yes. During my work I not only observed the work but also made an analysis of the work performed and discussed the operations with supervisory and clerical personnel. This was true of not only the billing operation but of all accounting activities of the gas companies as well as those of the affiliated electric companies doing work on a joint or combination basis with affiliated gas companies.

Q. Mr. Johnson, you have told us about the joint use of billing centers to prepare customers bills. Will you now please tell us of any other customer accounting and related activities that were done on a joint or combination basis?

A. Yes. Electric and gas meters were read on a combination basis for electric and gas affiliates serving in a common area. Also, customer service order work, credit and collection work, cashiering, customer accounting and [1281] other related work were performed in a similar manner.

Q. Will you please explain the nature of this combination effort in greater detail? A. Certainly. As I mentioned, gas and electric meters were read on a combination basis. By this I mean the meters of a customer using both services were read at the same time by one Meter Reader. One meter reading sheet was used to record both the electric and gas meter reading. Customer requests to establish or discontinue the use of gas or electric service were handled by one employee with a single order form. Customer payment facilities, in field offices, provided for payment of both electric and gas bills. Collection activities for delinquent accounts were performed on a combination basis. Accounts Receivable records for both electric and gas accounts were maintained by one employee. Accounting control numbers and customer account numbers for a combination electric and gas customer were one and the same.

Q. In your opinion, were there advantages to these combination or joint operations by the electric and gas companies? A. Yes, there were several and they were substantial. Briefly, this arrangement offered economies in cost of operation and convenience to customers.

Q. Would you please explain this a little further? [1282] A. Yes. As the severance study shows, there were major economies that represented considerable dollar savings, made possible by these joint electric and gas activities. Manpower requirements were substantially reduced in comparison to a single operation. Cost of transportation, office space and facilities and other related items were materially lower than if the activities were performed in-

dependently by the electric and gas affiliates. There were several examples of benefits of this combination activity.

A Meter Reader would call at a customer's home once to read both the electric and gas meters rather than having two men call to read the meters separately. This was a convenience to the customer and a minimum use of manpower for the company. Customers paid their bills at a single office or frequently mailed their payments with one check in one envelope for both electric and gas service.

Customer requests to establish or discontinue both electric and gas service were completed with one telephone call, one personal visit to one office or the mailing of one letter. Customers orders for both services were executed by one serviceman making one call at the customer's premises. Customer billing inquiries concerning both services were answered by one employee with a single telephone call, in person visit or letter. Delinquent [1283] electric and gas accounts were collected, arrangements for payments made, or service discontinued by one field call.

Q. Continuing with customer accounting and related activities, would you please tell us if in your opinion these functions were carried on efficiently and in an economical manner? A. Yes, they definitely were.

An analysis of reports, submitted to the Department of Public Utilities of Massachusetts, of twelve Massachusetts gas companies, none of which were affiliated with the NEES System and 10 of which provided gas service only showed the average commercial costs per customer, during the year 1958 to be \$6.37.

[1284] This compared to \$4.69 per customer for the 8 NEES gas companies, and indicated that the NEES System customer accounting policies, practices and procedures could be very favorably compared to other Massachusetts gas companies. My discussions with supervisory and clerical personnel indicated to me that the procedures were well

planned and functioned with minimum clerical effort. This was evidenced by the simplicity of the meter reading record sheet which served a four year period for combination electric and gas accounts. A permanent customer history record used for credit and collection purposes, a permanent service location and customer record used to establish and discontinue service and the use of other similar combination forms resulted in a minimum of transcribing work and a reduction in clerical effort. The number of accounting controls were confined to adequate workable minimums to avoid additional clerical manhours. The organization of the treasury districts provided for common administration, supervision and specialized accounting personnel for both electric and gas affiliates. This resulted in qualified and experienced administrative and supervisory personnel, utilizing minimum staffing requirements. The use of this specialized personnel resulted in better work performance.

Q. Mr. Johnson, you have discussed the combination electric and gas customer accounting activities. Now would [1285] you please tell us how the general accounting activities were conducted? A. General accounting activities were done on a combination basis by the affiliated electric and gas companies. The degree of combination was not as extensive as I found in customer accounting activities. The primary reason for this, of course, was the nature of the work. Nevertheless, the combination general accounting work was, in my opinion, significant from the point of view of economy and efficiency in accomplishing the work.

Q. What were your reasons for this conclusion? A. There were several. They included the joint use of administrative and supervisory personnel, the degree of specialization of accounting personnel as well as the ability of large groups of personnel to more adequately complete the routine daily work volumes during periods of employee absences because of illnesses and vacations. Combining

general accounting activities also had an important advantage in that it resulted in good work load factors and reduction in peak loads. The use of larger groups of personnel to perform this work at central locations reduced the complexity of the work in that the job content was simplified. This allowed the use of employees at lower salary scales to perform the routine duties. Facilities to house these personnel were minimized because [1286] of the combination effort.

Q. Where were the general accounting activities conducted? A. Wachusett Gas and Central Massachusetts Gas activities were conducted jointly at Webster. Administrative control over this group, as well as Worcester County Electric, was provided by the Assistant Treasurer and his staff located at Worcester. General accounting activities for Northampton Electric and Northampton Gas were carried on jointly at Northampton. Administrative control over the activities at Northampton for these electric and gas affiliates was provided by the Assistant Treasurer and his staff located at Northampton, who reported to an Assistant Treasurer in Worcester. This administrative group also provided control functions for Northern Berkshire Electric and Southern Berkshire Power. Merrimack- Essex Electric, Lawrence Gas and North Shore Gas general accounting activities were done at Lawrence. Administrative control was furnished by the Assistant Treasurer and his staff who were located in Malden. This Assistant Treasurer and his staff provided the same services for Suburban Electric and Mystic Valley Gas. Mystic Valley Gas performed its general accounting activities on a joint basis with Suburban Electric Company at Malden. Norwood Gas general accounting activities were conducted jointly with Quincy [1287] Electric, Weymouth Light and Norwood at Quincy. Lynn Gas and Electric general accounting activities was done on a combination basis at Lynn. The

Treasurer of Lynn was responsible for all accounting activities.

Q. Were the stores accounting activities done on a joint basis? A. Yes, the stores accounting functions were performed jointly and in many locations the physical stores stock was maintained jointly or in jointly occupied quarters. Again, the nature of the work demanded segregation of stores accounting records but the advantages of joint administration, supervision and stores handling of stores accounting activities a month the electric and gas affiliates was fully utilized.

Q. Would you please discuss this in more detail? A. Certainly. A Stores Superintendent, located at Worcester, provided over-all supervision of stores activities for Worcester Electric, Central Massachusetts Gas and Wachusett Gas. Worcester Electric and Central Massachusetts Gas maintained joint storerooms at Webster and Southbridge. Personnel at these locations engaged in joint electric and gas stores work. Worcester Electric and Wachusett Gas handled stores work jointly at Leominster in a combination storeroom.

Northampton Electric and Northampton Gas also [1288] performed stores work jointly in a common storeroom building at Northampton. Stores accounting work was carried on jointly, utilizing punch card equipment at Malden, between Mystic Valley Gas and Suburban Electric. The storerooms were segregated.

Merrimack-Essex Electric and Lawrence Gas maintained a joint electric and gas storeroom with joint personnel maintaining the stores records at Lawrence. North Shore Gas storerooms were maintained separately from similar electric activities under the supervision of a Chief Accountant General, located at Lawrence. This employee also provided similar supervisory authority for Merrimack-Essex Electric and Lawrence Gas. Lynn stores functions were

fully integrated both as to accounting activities and physical stock handling.

Q. Mr. Johnson, were there any other joint activities conducted by members of District Treasury Organizations? A. Yes, there were several. Basically they included personnel engaged in insurance, medical and safety activities.

Q. Please tell us about them. A. Yes. Insurance, medical and safety services were provided to employees of affiliated electric and gas companies on a combination basis. Insurance services to employees included handling of group insurance and retirement records, informing employees of NEES System retirement [1289] benefits as well as federal social security benefits, the NEES System payroll sickness benefits, Blue Cross-Blue Shield medical and surgical services and assisting an employee's immediate family at time of his death.

Generally in periods of stress the insurance and medical personnel were available to assist employees. The insurance group also handled property damage claims in the respective areas of the affiliated electric and gas companies, assisted in determining insurance values of company owned properties and other related activities.

Safety services consisted of extensive safety training programs, investigation of accidents, to determine cause and responsibility, observance of employees at work to insure safety rules were being followed and the maintenance of detailed safety records.

Q. Where were these activities conducted? A. A group of insurance and medical employees were located at Worcester and provided services to employees of Worcester Electric, Central Massachusetts Gas and Wachusett Gas. Personnel of the general and administrative group of the Central District Treasury Organization located at Northampton provided services for Northampton Electric,

Northampton Gas, Northern Berkshire Electric and Southern Berkshire Power. Personnel located at Lawrence and Salem performed combination work for Merrimack-Essex Electric, [1290] Lawrence Gas and North Shore Gas. Personnel at Quincy performed this work for Quincy Electric, Weymouth Light and Power and Norwood Gas. At Lynn Gas and Electric members of the Personnel Department performed these services.

Q. Were there any other functions that involved combination activities that you observed? A. Yes, there were. In many locations electric and gas meter records were maintained by either an electric or gas affiliated company. Receipt and dispatch of customer telephone calls for establishing or discontinuing electric and gas service and the receiving and dispatching of customer service and trouble calls were handled from one location for both the electric and gas companies when both services were available in a common area. Customer orders, where meters already were installed, to establish or discontinue electric and gas service were executed by one individual.

Q. Could you please give us some examples? A. Certainly. Central Massachusetts and Worcester Electric maintained meter records jointly at Webster. Customer orders for read-in and read-out of electric meters and lock-in and lock-out of gas meters were executed on a combination basis by one serviceman making one field call. The receiving and dispatching of customer service electric [1291] and gas calls were handled on a combination basis at Webster during normal business hours. After hour electric and gas calls in this area were handled by substation operators of Worcester.

Lawrence Gas handled similar activities on a combination basis with Merrimack-Essex Electric. Customer service, maintenance of meter records, receiving and dispatching service calls and execution of customer orders were all

handled out of a combination service center at Methuen Street, Lawrence. Mystic Valley Gas performed this type of work in combination with Suburban Electric, North Shore Gas with Merrimack-Essex Electric, Northampton Electric with Northampton Gas and Wachusett Gas with Worcester.

There were minor differences in the way the functions were handled but they basically were fully integrated. Norwood Gas handled these functions on a single service basis. Lynn Gas and Electric handled them completely on a combination basis.

Q. Now then, Mr. Johnson, would you please tell us about the allocation of charges to the affiliated electric and gas companies for the payroll of employees engaged in combination electric and gas treasury and accounting activities? A. Yes, personnel were carried on electric and gas company payrolls as either full time or part time employees. In general, work load was the basis used to determine the payroll assignment. Occasionally electric and gas companies [1292] billed each other to compensate for differences. Various methods were applied to measure these work loads which determined the allocation of the payroll charges.

Q. Would you please discuss these methods? A. Yes. In determining work load, the various methods of allocation used by the operating companies gave consideration to meters in service, gross revenues, number of employees or number of customers served, as appropriate in the particular case. These were the bases used to allocate personnel, engaged in combination electric and gas work, to the payrolls of the respective affiliated electric or gas company.

Q. Who determined the method of allocation that was applied? A. This was the responsibility of the Local Managers and the Assistant Treasurers of the district treasury organizations in the field. The President and Treasurer of Lynn were responsible in their area.

Q. Were there any advantages in having the allocations determined in the field? A. Yes, there were important advantages. The field personnel were very close to the daily work and had a good knowledge of the work loads. In this position they were able to more accurately determine the allocations than would other system personnel not so close to the [1293] actual operation. Also, the field personnel were not restricted by rigid directives which could possibly result in improper allocations because of lack of familiarity with particular situations.

Q. Were these allocations reviewed at any time? A. Yes, I discussed the matter of review with responsible field administrative personnel and found that the allocations were reviewed periodically, usually annually. In addition, if a major change occurred which indicated a reallocation, a review was made at that time.

Q. You mentioned the companies billed each other. Would you please explain the nature of this billing? A. Yes, there were several examples. North Shore Gas customer bills were prepared at the machine center at Malden. Mystic Valley billed North Shore for this service. Central Massachusetts Gas and Wachusett Gas performed general accounting activities jointly. Personnel engaged in this work were employees of Central Massachusetts. Central Massachusetts therefore billed Wachusett, based on an analysis of work load for this work. Employees of Quincy Electric performed the general accounting work for Norwood Gas and billed Norwood on a work load basis for the work performed.

Q. Mr. Johnson, what information did you obtain to conduct your study of the allocations? [1294] A. Since electric and gas activities were so fully integrated in the four treasury districts, I requested and received detailed and summary data, concerning payroll costs, job assignments, job duties, volume and frequency statistics and

other related data. This material was detailed by accounting functions and companies. Summaries were prepared on an area basis to conform to the jurisdictional areas of the four District Treasury Organizations. The summaries showed the allocation of charges by functions for the respective electric and gas companies.

Q. What did you do with this material? A. I studied the data and applied tests to determine the reasonableness of the allocations.

Q. Would you please describe these tests? A. Certainly. Let me give an example. The Northeastern District Treasury Organization included two geographical areas, Malden and Lawrence. Suburban Electric and Mystic Valley Gas were in the Malden area. Merrimack-Essex Electric, Lawrence Gas and North Shore Gas were in the Lawrence area. The administrative group for both areas was located at Malden. A payroll analysis of all treasury and accounting personnel serving Merrimack, Lawrence and North Shore, including the administrative group at Malden, showed that the total annual payroll costs for all full time and all part-time employees serving Merrimack-Essex Electric, Lawrence Gas and North Shore Gas were approximately [1295] \$1,565,000. These costs were based on salary levels as of January 1, 1959 and did not include payroll taxes or fringe benefits. Of this total payroll, \$1,189,000 was paid by Merrimack-Essex Electric, \$180,000 by Lawrence Gas and \$196,000 by North Shore Gas. On a percentage allocation, it represented 76% charged to Merrimack-Essex Electric, 12% to Lawrence Gas and 12% to North Shore Gas.

In order to determine if this was a reasonable allocation, I compared the percentage charges to number of meters in service and gross revenues of the respective companies. Of the total meters in service for the three companies, Merrimack-Essex Electric served 72%, Lawrence Gas 14%

and North Shore Gas 14%. Of the total dollar revenues, Merrimack-Essex Electric received 83%, Lawrence Gas 8% and North Shore Gas 9%.

Q. In your opinion, Mr. Johnson, on the basis of your analysis and the results of your tests, were the allocations reasonable? A. Yes, there were that. It is my opinion that they were fair, reasonable and showed good results.

Q. Mr. Johnson, did you base your opinion on the tests made in the Lawrence area only? A. No, I made similar tests in other treasury areas that would be affected by severance; for example; tests applied to the Malden area companies of Suburban Electric [1296] and Mystic Valley Gas showed the payroll costs allocated 47% to Suburban Electric and 53% to Mystic Valley Gas. Suburban served 45% of the total meters in service and Mystic 55%. On a revenue basis, Suburban received 55% and Mystic 45%. Tests made in other District Treasury areas showed similar results.

Q. Mr. Johnson, so far you have discussed allocations of overall treasury and accounting costs to the electric and gas companies within District Treasury areas; now could you please tell us if you investigated the allocation of these charges on a functional basis. A. Yes, I tested the allocations of charges made to customer, general and stores accounting functions.

Q. Will you please tell us the results of this investigation? A. Certainly. The tests I made in the functional areas showed the allocations to be fair and reasonable. As an example of this, the Lawrence area as I have mentioned previously included Merrimack-Essex Electric, Lawrence Gas and North Shore Gas. General accounting payroll costs for these three companies were approximately \$297,000. On a percentage basis, 82% of this amount was allocated to Merrimack-Essex, 9% to Lawrence Gas and 9% to North Shore Gas. Comparing these percentage allocations to

the total gas and electric meters in service for the three companies. [1297] Merrimack-Essex served 72% of the total meters, Lawrence Gas 14% and North Shore Gas 14%. Comparison with total revenues for the three companies showed Merrimack-Essex received 83%, Lawrence Gas 8% and North Shore Gas 9%.

Q. Mr. Johnson, for the examples of your tests which you have given us, you used the number of meters in service and gross revenues to test the allocations. In your opinion, are these two measures a sound basis on which to evaluate the reasonableness of the allocations? A. Yes, in my opinion they are. There are several yardsticks that could be used to test the allocations of treasury and accounting costs. Gross revenues and meters in service are probably the most commonly used. The number of customers served is similar to meters in service. These measures may be applied to customer accounting costs with very satisfactory results. When applied to other accounting costs such as general and stores accounting, the results are generally good.

Always when applying these yardsticks, care must be taken to detect any unusual circumstances such as a great number of customers being served with two meters, a distortion in revenues, such as a large amount of revenue being received from a small number of industrial customers, or other unusual circumstances. My investigation did not disclose significant unusual circumstances.

[1298] Q. Did the methods used to allocate charges for treasury and accounting costs require considerable clerical effort? A. No, they did not. There was very little clerical effort involved. Once allocations were determined, it was a question of periodic review plus a review when circumstances changed. This was a relatively simple matter. Elaborate record-keeping and complex administrative procedures were not necessary.

Q. Mr. Johnson, will you give us your overall conclusions with respect to allocation methods in the NEES System?

A. Yes, we were thoroughly satisfied with the soundness of these methods and their results. In my opinion this is largely a result of fixing initial responsibility for allocations on officers who are most intimately and directly concerned and acquainted with the particular costs being allocated. On the basis of our study of these methods and their results, we concluded that each company in the system was paying its fair share and receiving fair return for what it paid.

Q. Mr. Johnson, were you responsible for determining the adequacy of the pro forma treasury and accounting personnel requirements shown in the Ebasco report? By the Ebasco report I am referring again to respondent's [1299] offered Exhibit 58. A. Yes, that was my responsibility.

Q. Will you please tell us how you went about this phase of your work? A. Certainly. Foremost I kept in mind that the working relationship with electric affiliated companies would no longer exist and that the gas companies would operate on an independent basis. With these thoughts in mind, I reviewed union agreements, job descriptions and salary grades to insure that the new organizations constructed were not in violation of union contracts. I analyzed statistics showing work volumes and reviewed my familiarity with the geographical areas served by the companies. I studied the work loads as they were performed in order to establish comparable work loads for employees in the new organization. I discussed personnel requirements for the independent gas companies with administrative and supervisory personnel in the field and obtained information concerning work details. I also reviewed the treasury and accounting services provided by NEPSCO to the operating companies and the extent of advisory services provided by NEES executives.

Consideration was given to those accounting services provided by affiliated companies for each other. [1300] Also I analyzed the personnel requirements with members of the Ebasco organization to obtain their opinions as to the adequacy of the pro forma organizations.

Q. In developing these pro forma organizational structures for the independent gas companies, as shown in the Ebasco report, did you follow the pattern of the organizations as you found them? A. No. We did not attempt to perpetuate the existing organizations.

Hearing Examiner Ewell: Were these last studies that you mentioned conducted on the basis of each gas company operated separately?

The Witness: Yes, sir.

Hearing Examiner Ewell: As an individually operating company?

The Witness: As an individually operating company.

If you will compare the treasury and accounting section of the pro forma organization chart for North Shore Gas, shown in the Ebasco report on pages 520 with the Northeastern District Treasury Organization on pages seven and eight you will see that there they were organized in a completely different manner. Even if we had attempted to follow the pattern of the organization as of January 1, 1959, it would not have been possible because of the nature of the organization of the District Treasury Organizations and [1301] the services provided by NEPSCO.

Q. What do you mean by this? A. Under the District Treasury Organization accounting functions were frequently centralized for the companies at various locations throughout the system. Our objective was to provide accounting organizations for each gas company for operation on a completely independent basis. Administration and supervision, in the District Treasury Organizations, was common for a number of electric and gas companies. Upon

independent operation it was necessary that these functions be carried on within each independent gas company.

Q. How did you develop the pro-forma organizations shown in the Ebasco report? A. I first prepared the framework of the projected treasury organizations. I then requested administrative personnel in the District Treasury Organizations to furnish me with an estimate of the personnel changes consistent with this framework. Based on my past utility experience and knowledge of the work requirements I studied these personnel requirements to determine their adequacy.

Various factors that I considered were the number of meters to be read per man per manday, number of customers accounts handled by customer accounting clerical personnel, number of customer inquiries, customer orders processed, number of stores issues and receipts, frequency [1302] of employee pay days, number of labor distribution items, number of work orders issued and other related volume, frequency and scheduling data. Also of importance was the providing of adequate supervision under independent operation.

Q. Do you consider the treasury and accounting personnel requirements, as shown in the Ebasco report, for the respective companies, adequate for the independent gas companies in the event of severance? A. Yes, they are adequate but they are minimum organizations and would not produce the same quality and results that were attained under the NEES System. Although the increased general, customer and store's accounting personnel costs to the independent gas companies amounted to approximately \$531,700 annually, the organizations did not provide for all of the services of NEPSCO, and of significance was the absence of experienced administrative and supervisory personnel of the treasury districts.

Q. Would you please explain this a little further?

A. The independent gas companies would not have the treasury and accounting services of NEPSCO. In my opinion these services were very valuable. They included systems and methods work which provided for development and issuance of instructions for performing accounting procedures, internal audit activities, forms design and control work, depreciation study work, assistance and review of reports [1303] to regulatory bodies such as state commission reports, SEC reports, and other related items.

The independent gas company would, of course, avail itself of outside professional services for this work, when necessary, but these services would result in loss of economies because of increased costs. Also they are decided advantages to utilizing NEES System personnel in this work since they retain good working knowledge of the accounting policies, practices and procedures and require little orientation.

The loss of the administrative groups of the various treasury districts would be detrimental to the independent gas companies. The broad knowledge of utility accounting practices and procedures and the advantages gained from the experience with other operating affiliates which was enjoyed by these administrative groups would no longer be available. Only with large system operation can these benefits be realized.

Q. Mr. Johnson, did you consider as part of your study whether there were any ways in which the gas companies could obtain comparable benefits as those now received as part of NEES without incurring the substantial additional costs shown in the proforma organizations and other disadvantages of severance you have referred to?

A. Of course we did. That was one of the major purposes [1304] of our study—to ascertain the most economical

method of providing the services with a minimum impairment to the services themselves.

Q. Did you consider alternative methods by which these services could be obtained? A. Yes we did. The most economical would be to have the functions continue on a joint basis and to have NEPSCO continue to perform functions as in the past. However, it would be a completely unsound business practice for unaffiliated companies to perform treasury and accounting functions on a joint basis, as this would involve sharing with an unaffiliated company control and responsibility over money, records and information constituting the very heart of the company's business. I do not know of any comparable situation where it is done—and there are obvious reasons why this is so.

As far as the NEPSCO service in the Treasury and Accounting area are concerned, we have considered very carefully the possibility of these being purchased from outside firms. Without question the fees of outside firms would be substantially higher. We have assumed that after severance NEPSCO would not and could not perform services at cost. With respect to many of the present specified services now performed by NEPSCO in the Treasury and Accounting field, we have assumed that they would be assigned as part of the [1305] duties of personnel of the independent gas companies who would also be performing many other duties. Further, certain functions, because of cost considerations, would no longer be available to these companies. Beyond this, we have determined where outside professional services would be economical and where they would not. While we have assumed in our study that additional services would be performed by independent accountants, and have reflected this as an increased cost, we have not shown any dollar figures for other professional services in the Treasury and Accounting area which would undoubtedly be required, although only occasionally.

All this, of course, is quite aside from the very serious loss of efficiency and experience—which eventually would be felt both in dollars and in service—for which we could not make a dollar allowance in our study.

Q. Mr. Johnson, you told us that payroll for general, customer and store's personnel would result in an annual increase of \$531,700 to the eight gas companies in the event of severance. Would you please tell us the severance effect on treasury and accounting personnel of the electric companies in the NEES System? A. Yes. Payroll costs for personnel engaged in general, customer and store's activities for affiliated electric companies would increase approximately \$356,600 [1306] annually.

Q. What is the cause for such a major increase in these costs? A. Primarily the loss of economies of combination electric and gas treasury and accounting activities. As I previously mentioned, customer, general and stores accounting activities were performed on a joint or combination basis. Administration and general supervision was provided by the District Treasury Organizations on a joint basis using Common administrative, staff and supervisory personnel. The District Treasury Organizations provided a means of performing meter reading, customer service, accounts receivable, credit and collection, cashiering and other related customer accounting work on a joint basis for both electric and gas companies serving common areas. This was also the case for general and stores accounting activities. I have previously explained the problems involved in combined operation between non-affiliated companies.

Q. To give us a clear picture of the pro forma accounting organizations for the gas companies operating independently, would you please discuss the pro forma accounting organization as shown in the Ebasco report for North Shore Gas? A. If you will please look at the Pro Forma

Organization Chart of North Shore on page 520 of the report, I will discuss in detail the functions of the various groupings [1307] and relate them to the organization of 1958.

Under the pro forma organization, the Treasurer and Assistant Treasurer and Clerk would be responsible for financing activities, investor relations, federal, state and local tax matters, corporate records, insurance requirements, internal auditing, accounting systems and procedures work, regulatory and management reports, customer relations and in general, all accounting functions.

The Assistant Treasurer would be generally responsible for the supervision of general, stores and customer accounting activities. The duties assigned to the Treasury and Assistant Treasurer are similar to those formerly provided by the Treasurer, the Northeastern District Treasury Organization and NEPSCO. Also, the new organization would have to operate without the advice of NEES officials.

Q. Who were the administrative, general supervisory and staff personnel of the Northeastern District who would no longer be available to North Shore upon severance?

A. The Assistant Treasurer, an Executive Secretary and an Auditor. This group provided administrative control over treasury and accounting functions for Merrimack-Essex Electric, Suburban Electric, Lawrence Gas, Mystic Valley Gas, and North Shore. A Comptroller and staff of three persons, located in Lawrence, who provided general and supervisory functions for Merrimack-Essex, Lawrence Gas and [1308] North Shore, also would no longer be available to North Shore.

Q. How would the loss of services of these personnel affect North Shore if it were operated independently of the NEES System? A. For the most part, the Treasurer and Assistant Treasurer and Clerk would absorb these functions.

Q. Would you please continue with the general accounting work? A. Yes. In the Northeastern District Treasury Organization, there were six employees of North Shore who engaged full time in general accounting work. Six other employees performed general accounting work on a joint basis for Merrimack, Lawrence and North Shore. Four of these employees were on the payroll of Merrimack. One employee was on the payrolls of both Merrimack and North Shore and another was on the payrolls of both Merrimack and Lawrence.

Q. Mr. Johnson, to perform this work on an independent gas company basis, what would be the personnel requirements? A. Excluding the Treasurer and Assistant Treasurer and Clerk, nine full time employees would be required to do the general accounting work. They also would be required to provide management with statistical data and special studies as required. They would perform clerical insurance work as well.

[1309] Q. Do you think that this number of personnel would be adequate to accomplish the general accounting work? A. Yes, in my opinion it would be adequate but I do believe there would be times when peak loads would occur which would result in abnormal overtime. Also difficulty could be experienced during periods of employee absences because of illnesses and vacations. The pro forma payroll costs, shown in the Ebasco report, do not reflect these overtime costs.

Q. If you felt that the organization was adequate, why should these overtime situations occur? A. The personnel requirements were minimum. Under the Northeastern District Treasury Organization, larger groups of experienced personnel gave greater flexibility and were available to handle situations such as I described.

Q. Would there be any effect on personnel requirements on general accounting work for Merrimack-Essex Electric

Company? A. Yes, the personnel requirements for general accounting work for Merrimack-Essex would be reduced by one employee, an Accounting Assistant. This employee was one of the six employees I mentioned that performed work for Merrimack, Lawrence and North Shore. Merrimack would also absorb the payroll costs of the one general accounting employee who was on Merrimack and Lawrence payrolls and [1310] the other employee who was on Merrimack and North Shore payrolls.

Q. Would Merrimack-Essex suffer any other loss of economy in the treasury and accounting area because of severance? A. Yes, it would. Payroll costs of the Assistant Treasurer, Secretary and Auditor, who provided administrative control over the 5 electric and gas affiliates in the Northeastern District Treasury Organization, would be, [1311] reallocated to the electric companies in the event of severance of the three gas companies. The payroll costs of personnel engaged in miscellaneous treasury and accounting functions, for affiliated companies in the area, also would be absorbed by the remaining electric affiliated companies.

Q. What were the functions of this group engaged in what you call miscellaneous work? A. They provided personnel, insurance and safety services to North Shore and other affiliated companies. Two employees of the group provided supervisory and specialized accounting services.

Q. Who would absorb the duties of this group of personnel for the independent gas company? A. The nine employees of the pro forma general accounting section under the general supervision of the Treasurer and Assistant Treasurer and Clerk.

Q. Mr. Johnson, you mentioned that the remaining electric affiliates would absorb the reallocation of payroll costs of the Assistant Treasurer and his staff and of the miscellaneous group; could you please tell us how you came to

that conclusion? A. Yes. The Assistant Treasurer and his staff provided the administrative control function over all treasury and accounting work for the five electric and gas companies of the Northeastern District Treasury Organization. The Safety Supervisor provided joint services for Merrimack-Essex [1312] and North Shore. The Comptroller and his staff, Personnel Director, and the insurance group provided services for Merrimack-Essex, Lawrence Gas and North Shore. All of the services by these personnel were of an essential nature.

The size of the electric affiliates Merrimack-Essex and Suburban would alone necessitate the employment of these services. Merrimack-Essex served 165,200 customers and Suburban 80,300. The three gas companies enjoyed the services of these groups because they were members of the NEES System and because of the nature of the District Treasury Organization. In the event of severance, the gas companies could not afford to replace these services in their entirety. Because of the nature of this work and the caliber of personnel required for it, personnel in these groups could not be replaced by the remaining electric companies at lower salary rates.

Q. If the gas companies are severed, won't the work loads of these groups be reduced? A. Yes, to some extent they will, but for the most part the nature of their work did not involve routine volume clerical work. They were specialists and their work was applicable to all companies. Their work loads did not increase to any significant extent simply because the results of their work was applicable to a number of companies.

Q. What is the severance effect on North Shores stores [313] accounting activities? A. Payroll costs, to conduct stores activities on an independent basis, would increase \$4,800 annually. This amount is based on 1958 payroll levels and includes payroll taxes and fringe benefits.

Q. Will you please explain further this relatively small increase? A. Yes. For the most part North Shore operated its stores activity independent from similar electric activities. The general responsibility for North Shore stores activities was under the Chief Accountant-General who was an employee of Merrimack-Essex and located at Lawrence. The primary reason for increased costs in this instance was the loss of NEPSCO purchasing services. Under the pro forma organization, the purchasing function was assigned to the Stores Section. The size of North Shore did not seem to warrant a full time Purchasing Agent.

Q. What is the effect of severance of North Shore on customer accounting activities? A. There would be a serious loss of economy in this area.

Q. What is the extent of the loss? A. Severance would result in an increase in payroll costs for customer accounting activities of \$46,600 annually. This amount was based on 1958 wage levels and included payroll [1314] taxes and fringe benefits.

Q. What are the causes for this substantial increase? A. North Shore Gas operated jointly with Merrimack-Essex Electric in practically all areas of customer accounting including meter reading, cashiering, handling customer accounts receivable records, merchandise and jobbing billing and accounting, credit and collections, customer service, customer relations and other related activities. Customer bills for both companies were prepared at the Machine Center in Malden.

Combination customer accounting activities were carried on at Salem, Gloucester and Beverly. Branch stores were located at Danvers and Peabody, which were devoted exclusively to gas operations, displayed and sold appliances and provided customer convenience in bill payment and customer service activities. The extent of joint work in customer accounting activities was deep.

Hearing Examiner Ewell: We will recess at this point and reconvene at 2:00 p.m. this afternoon.

(Whereupon, the hearing recessed at 12:42 p.m. to reconvene at 2:00 p.m.)

[1315]

AFTERNOON SESSION

2:00 p.m.

Hearing Examiner Ewell: Let us resume, gentlemen.

Whereupon,

THOMAS J. JOHNSON, JR.

the witness on the stand at the time of recess, having been previously sworn, was examined and testified further as follows:

Mr. Vorenberg: I wonder, your Honor, if I could ask the reporter to read back the last question?

Hearing Examiner Ewell: Yes.

The Reporter: I do not have the last question with me. The notes of the morning session are in the office being transcribed.

Mr. Vorenberg: May I read the last question and answer from my notes in order to have the continuity?

Hearing Examiner Ewell: Yes.

(The notes were read off the record.)

Direct Examination (Resumed)

By Mr. Vorenberg:

Q. Mr. Johnson, would you please give us some examples of this depth? A. I previously mentioned combination meter reading in that it was a convenience to customers and also an efficient use of manpower since the Meter Recorder can easily read both the electric and gas meters once he has arrived at the customer's [1316] location. A single meter reading sheet was used to record both the electric and gas meter reading and to record the customer information. A

customer order to establish or discontinue the use of electric and gas service, after execution, was entered on a single meter reading sheet. The combination electric and gas meter reading sheet provided for single entry of customer information which was applicable to both services. One addressing media was used in customer bill preparation. Credit and collection telephone and field effort resulted in the collection of delinquent accounts for both electric and gas with only one call. Completion of customer order forms were greatly facilitated since they provided for both gas and electric work. Customer billing inquiries were completed by one employee with a single customer contact. All of this dual activity, and there are several others, resulted in a minimum of clerical effort and considerably reduced field work.

In addition to increased clerical and field work required under independent gas operation, supervisory functions must be provided for. Another significant factor that would result in increased personnel requirements was the loss of the Machine Center at Malden. Customer bills were prepared at this center. Upon severance, North Shore Gas would prepare its own customer bills, rate, revenue analysis and other statistical data. The increased payroll costs of \$46,600 [1317] provided for the customer bill preparation.

Q. What is the number of increased customer accounting personnel required upon severance? A. Eleven employees would be required by North Shore Gas and thirteen additional employees by Merrimack-Essex. The increased payroll cost, including payroll taxes and fringe benefits to Merrimack would be approximately \$69,700 annually. This increased payroll cost also provided for performing customer accounting activities for merely done in combination with Lawrence Gas Company.

Q. Would the customer accounting pro forma organization be adequate in the event of severance? A. Yes, it would be adequate to perform the work and render good service to customers.

Q. Mr. Johnson, is there anything else you would like to say about treasury and accounting activities? A. Yes, I would like to state again that in my opinion the NEES System provided good service to customers at low unit costs per customer. During 1958 the average gas commercial cost per customer for the 8 Massachusetts gas companies of NEES was approximately \$4.69. Twelve non-affiliated Massachusetts gas companies showed costs of \$6.37 per customer during the same period.

The pro forma costs of the gas companies under independent operation would approximate this latter figure. [1318] This is still a low unit cost both nationally and in the New England area, but it should be borne in mind that many elements of this cost in the pro forma organization reflect the continuation of methods of efficient operation and planning of treasury and accounting functions as established by NEES during the past years. The loss of the guidance and specialized advice of the NEES System will certainly in time result in significant losses of economy, although these are not reflected in the figures shown in our report.

Q. What is the aggregate increase in dollar costs as shown by your study in the treasury and accounting fields?

A. For both electric and gas companies, the total annual payroll costs, for general, customer and stores accounting functions alone as shown by our study would increase \$888,300 annually upon severance. Of this amount the independent gas companies would be burdened with \$531,700 and the remaining electric affiliates \$356,600.

Q. Are there other severance costs that are not reflected in the Ebasco report? A. Yes, very definitely and although they are nonrecurring and no consideration of the dollar

amount involved was included in the Ebasco report they are of major importance.

Q. What are these non-recurring items? A. With straight electric and straight gas meter reading, meter reading books must be rerouted so that each [1319] meter reading book will represent a fair day of work. New addressingograph plates or punched cards must be prepared for addressing customer bills. Gas and electricity meter records service location and customer credit listing files must be separated and new records prepared.

A vast quantity of equipment such as addressing equipment, mailing machines, customer service and customer history files, safes, check signing machines, multilith reproducing machines, payroll machines, customer billing machines, cashier counters, mail opening machines, filing cabinets and a host of other related office equipment. Severance of the gas companies will definitely cause a considerable amount of additional effort and expense in numerous areas.

Q. Do you have any thought as to the amount of this nonrecurring expense affecting the treasury and accounting department? A. I would estimate a minimum expense of 200,000 to 250,000 dollars, not including capital costs. This would provide for preparation of separate electric and gas meter reading sheets, rerouting of meter reading books so that they would represent a fair day of work, preparation of separate gas and electric service location and customer history records and other related customer accounting basic records.

Q. Mr. Johnson, would you give us your general conclusions concerning severance of the gas companies from the NEES System? [1320] A. As I have told you, there are significant economies from the joint performance of electric and gas treasury and accounting functions. As they were organized, they were carried on with what I regard as a

high degree of efficiency and absence of unnecessary expense.

To break up the very heart of this by separating the gas companies would make no sense at all from an operational point of view which would add materially to cost and would impair service to customers and reduce the depth and flexibility of both the electric and gas operations.

Mr. Vorenberg: Mr. Hearing Examiner, I have no further questions of Mr. Johnson at this time.

Hearing Examiner Ewell: Mr. Nowlin, do you have any questions?

Mr. Nowlin: Yes, I have a few I would like to ask Mr. Johnson.

Cross Examination

By Mr. Nowlin:

XQ. Mr. Johnson, I notice in the course of your testimony you referred to 12 nonaffiliated gas companies in Massachusetts. A. That is right, sir.

XQ. Could you identify those companies for the record? A. I would have to get a list from my paper, sir. I don't have it up here with me.

[1321] XQ. Could you supply it this afternoon? A. Yes, sir.

Mr. Nowlin: I would like to have those read into the record, Mr. Examiner, if it would not be too much trouble.

Mr. Vorenberg: May Mr. Johnson be excused for the purpose of obtaining this information?

Hearing Examiner Ewell: Yes, sure.

The Witness: All right.

It is the Berkshire Gas Company, Boston Gas, Brockton-Taunton Gas, Buzzards Bay Gas, Cambridge Gas, Fall River Gas, Fitchburg Gas Department. That is one of the combinations I mentioned. Haverhill Gas, Lowell Gas, New

Bedford Gas, and that is a combination company, Springfield Gas and Worcester Gas.

By Mr. Nowlin:

XQ. Do you know whether or not you have any municipally-owned gas companies in Massachusetts? A. I have no knowledge of any municipally-owned gas systems.

XQ. In making your comparison with these 12 non-affiliated companies, what was the basis of your comparison? A. I took the expenses as were reported on the DPU reports and divided by the total number of customers, the commercial expenses.

[1322] XQ. What is the DPU? A. The Department of Public Utilities of the Commonwealth of Massachusetts.

XQ. Was that based on the customers at the end of the year or an average of customers? A. That was based upon customers as of December 31, 1958.

XQ. Did you have available to you in connection with those comparisons balance sheets or income statements of these non-affiliated companies? A. No, I took this off the expense figures. I did not look at that. I was not interested in the balance sheet. I was looking at expense items.

XQ. Did you make any comparison of rates charged by the non-affiliated companies as compared with those of the NEES system? A. I did not, sir.

XQ. Was your study that you made a comparison of these companies? Was that reduced to a statistical form?

Mr. Vorenberg: Maybe the witness understood the question but I am afraid I don't.

The Witness: I don't understand.

Mr. Nowlin: Strike that question. I will rephrase it.

By Mr. Nowlin:

XQ. In making your comparisons of the 12 non-affiliated [1323] companies with those of the NEES system, did you reduce those comparisons to writing or in report form?

A. I just took that on an analysis. There is nothing in writing.

XQ. You have no written analytical comparison? A. I have this right here, yes, sir, which is an analysis.

XQ. Do you have a copy of that that would be available for the record?

Mr. Vorenberg: Mr. Nowlin, I have not even seen what he is talking from, but it sounds to me as though that is one of his working papers.

Mr. Nowlin: I asked if he had a copy that would be available in the record.

Mr. Vorenberg: I am sure we can make it available to you and for the record a summary of whatever information you want from the DPU reports. Without having seen it myself, I am reluctant to suggest that one of Mr. Johnson's worksheets be put in the record.

Hearing Examiner Ewell: If it is not too voluminous, could not counsel take a look at it now?

Mr. Nowlin: Mr. Examiner, we may want to make some studies of these comparative figures ourselves. We do not have the information available. If he had a copy available for the record we could put it in the record now.

Mr. Vorenberg: These are all matters of public record. [1324] We are talking about things that are on file with the Department of Public Utilities. We will certainly undertake to make available to Mr. Nowlin and to put in the record whatever materials of that sort he wants.

I think it would be more orderly if we had an opportunity to see exactly what this piece of paper is and be sure that is the one that expresses it in the most useful way. We will certainly give you what you want on that.

Mr. Nowlin: The thought occurred to me there is no way of us checking Mr. Johnson's conclusions that he drew from these comparisons without knowing what he worked from.

Mr. Vorenberg: Do you want to take a moment while we look at this sheet?

Hearing Examiner Ewell: Yes. That is what I was going to suggest. That is what I did suggest.

We will take a short recess while you do that.

(Short recess.)

Hearing Examiner Ewell: Have you reached any kind of an understanding on this material?

Mr. Vorenberg: Mr. Hearing Examiner,—

Hearing Examiner Ewell: Yes.

Mr. Vorenberg: —we have this working paper which is the basis of Mr. Johnson's testimony, but we would like, since it is a working paper, to offer it tomorrow after we have had a chance to make copies of it in sufficient quantity. [1325] If there is no objection to that—you do not object to that—we will give them to you as soon as they are ready.

These are all matters of public record. We are delighted to make them available but would like to do it in an orderly way.

Mr. Nowlin: It seems to me the most orderly way is when the witness is up here testifying and reaching a conclusion from the statistical information to put the statistical information in at that time. If you do not have it available, I suggest we reserve an exhibit number and supply it any time you want to.

Mr. Vorenberg: That is perfectly all right.

Hearing Examiner Ewell: Did you want to ask him questions at this time, Mr. Nowlin, if you had it in your possession?

Mr. Nowlin: No, sir. I did not have a chance to study it yet. It is information that he has had available as a basis for his conclusions. If it has information on that which I know from my associates that they will want to study—

Hearing Examiner Ewell: Then you are going to substitute a photostatic copy, is that right?

Mr. Vorenberg: That is right.

We will make it available.

And do you want to reserve a Commission Exhibit [1326] number, whatever the next number is in this proceeding for that?

Hearing Examiner Ewell: Do you want it as a Commission Exhibit or your own exhibit?

Mr. Vorenberg: It is one of our witness' working papers, your Honor. It is not an exhibit which we are offering.

Hearing Examiner Ewell: I see.

Mr. Vorenberg: But we are perfectly willing to have it go in. As I understand it, it will be Commission Exhibit No. 3.

Mr. Nowlin: I do not know why you are reluctant to offer it.

Mr. Vorenberg: We are not the least bit reluctant.

Mr. Nowlin: I do not know why I should offer it. It is supporting your witness' testimony. If you are not willing to, I will.

Mr. Vorenberg: It is not a question of being unwilling. It is not one of our exhibits.

Mr. Nowlin: They are producing a witness here testifying and reaching conclusions on statistical information, and we are asking to put the statistical information in the record.

Hearing Examiner Ewell: It is supporting material. I do not see why it could not come in as your exhibit unless you find something about it that you do not want to be bound by.

[1327] Mr. Vorenberg: I consider the request a little unusual and I have no objection whatsoever to having it be one of our exhibits. Reserve exhibit number 90.

Hearing Examiner Ewell: All right.

Mr. Vorenberg: Respondents' Exhibit No. 90.

Hearing Examiner Ewell: All right. It will come in, then, as Exhibit 90.

(Respondents' Exhibit No. 90 was RESERVED.)

By Mr. Nowlin:

XQ. Mr. Johnson, do you happen to know which one of those 12 non-affiliated companies purchases gas from Tennessee and which purchased from Algonquin. A.No, sir, I have no knowledge of that.

XQ. As I understand your testimony, you did not make an analysis or study at all of these eight subsidiaries of NEES, assuming they were under common control. A. Yes, I engaged in the study of the combined operation report which has not been submitted to you people as yet, sir. I am familiar with that, yes, in detail.

XQ. Your testimony this morning— A.—did not cover that in any manner at all.

XQ. I think in the course of listing your qualifications and background, you named some companies which you had done some work for but you did not identify those companies. A. I named the type of work that I did but I did not identify the companies.

[1328] XQ. Is there any objection? A. No, sir, I would be happy to.

XQ. I would appreciate it if you would identify those companies for the record. A. One was Duquesne Light Company, another Bridgeport Gas Company, another was Montana-Dakotas Utilities. Another was Central Hudson Electric and Gas up in New York. There are probably several others.

Mr. Nowlin: That is all I have for the present, Mr. Hearing Examiner.

Hearing Examiner Ewell: The witness is excused, as the others have been, subject to recall.

Mr. Vorenberg: Thank you, your Honor.

(Witness excused.)

Mr. Quarles: I have been informed fairly recently that the members of the Massachusetts Public Utilities, who have been here through the hearing up to this time, will find it necessary to leave this afternoon and so I would like to rearrange somewhat the order of my own presentation and after Mr. Quig has introduced the supplementary report and given a brief explanation of it, before completing his testimony to let him be excused so that the Chairman of the Department of Public Utilities can go on, if you have no objection to that.

Mr. Nowlin: I have no objection.

[1329] Mr. Quarles: Then I would like to recall Mr. Quig.

Whereupon,

ROBERT S. QUIG

was recalled as a witness and, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Quarles:

Q. Mr. Quig, the Ebasco report about which you have previously testified, offered as Respondent's Exhibit No. 58, sets forth the increase in operating expenses which would occur if the eight gas companies in the NEES system were to be separated and operated each independently. Was Ebasco so asked to consider the possibility that the gas companies might be operated on a combined basis of some kind apart from the NEES system? A. Yes, we were.

Q. And have you considered this possibility? A. Yes, sir, we have.

Q. I show you a bound document entitled "Gas Severance Study—Supplemental Report—Combined Operation—Eight Gas Companies." Will you tell us what this is?

A. This is a report from Ebasco summarizing the results of the study we made of the effect of operating the gas companies on a combined basis.

Q. Was this supplemental report also prepared under [1330] your supervision? A. Yes, it was.

Mr. Quarles: May I have this marked for identification as our Exhibit Number 91?

Hearing Examiner Ewell: Yes.

(Respondents' Exhibit No. 91 was marked for identification.)

Mr. Quarles: And perhaps it would be well to point out that we have been referring repeatedly to the Ebasco report that was previously offered as the Ebasco report.

It relates entirely to the basic information and to the possible operation of the individual gas companies separately.

We now are offering this additional Ebasco report which we refer to as the supplemental report and obviously it relates to the possible operation of the eight gas companies as a single system or on a combined basis.

By Mr. Quarles:

Q. Now, Mr. Quig, what was the purpose of this supplemental study and report? A. Our original gas severance study was developed on the assumption that the eight gas companies would go out of the NEES system individually and be operated independently of one another. We were asked to work on this assumption originally because it is impossible to know just what the [1331] terms of any disposition of these companies by NEES would be. Therefore, we had no basis for assuming that they would be under common control.

The losses which the original gas severance study showed would result from a number of factors. Some are due to the elimination of common executive officers and the necessity of hiring separate executives for each company. Some

are due to the elimination of combined gas and electric operations in joint service areas. Some are due to the loss of NEPSCO's services to the gas companies and the necessity of securing those services in some other and more expensive manner. As we developed the original gas severance study and saw that there were these several sorts of losses involved, the NEES people and we agreed that it would be useful to ascertain which of the losses set forth in our original severance study were due to the separation of the gas business from the electric business and which would be due to separating the gas companies, one from another upon disposition; or to put it differently, to ascertain the extent to which lost economies shown in the Ebasco Report could be salvaged by combined operation of the gas companies. This Supplemental Report sets forth the results of that further study.

Q. Mr. Quig, will you tell us generally how this study was carried out and who participated in it? A. From Ebasco's side, it was essentially the same [1332] team of experts who participated in the basic Gas Severance Study. Much of the data and information which we needed was the same as that which we gathered and studied which I have described earlier. Therefore, this further study of operations on a combined basis was to a large extent a question of analyzing information which we already had, and then gathering such information as was necessary.

Q. In general, did the Ebasco and NEES people work together on this in the same manner as has been described with respect to the work on the basic Ebasco Study? A. Yes, a significant part of the job of preparing this further study was discussions and joint study with the NEES people to analyze the projections set forth in the supplemental report and to provide a firm basis for our own judgments.

Q. In general, Mr. Quig, did the Ebasco personnel give specialized study to the same areas as they had covered in their work on the basic report? A. Yes. As I have indicated just now, we operated very much in the same way, particular members of our team pursuing their study in greater depth in their particular areas of expertness and responsibility and then reviewing and analyzing all of the conclusions together as a team.

Q. Please examine briefly the method you used and the basic assumptions you made in connection with this supplemental study and report. [1333] A. We determined, first, that a central organization would be the most economic method of performing the more specialized executive, administrative and staff functions necessary for the combined operation of the eight companies.

One feature of the NEES system which made our job easier in this respect was the existence of the present Gas Division. This provided a very logical skeleton or pattern for us to follow in projecting the requirements for the Central Organization.

Second, we determined that the functions left to local operating and management personnel would be just about what they are now except for changes made necessary by the separation of local gas and electric operations.

Therefore, we patterned the local management and operating organizations after those presently in existence.

In the third place, we determined that local treasury and accounting functions would be handled by an organization which basically would follow the lines of the prior severance study. We made no assumption about the sort of corporate or other vehicle which would be employed to effect a combination of the eight gas companies, except that there would continue to be eight corporate entities at the operating level and that there would be 51 per cent common ownership of the stock of these companies. The

latter assumption is necessary if certain savings are to be effected in insurance costs.

[1334] The Supplemental Report sets forth no expense for the maintenance of a corporate or other vehicle for effecting combination, and, therefore, the recovery of economies lost in independent operation reflected by this Supplemental Report should be viewed as an outside figure which would be reduced by the amount of such cost.

Q. Why did you assume that a new central organization would be built around the present Gas Division? A. We used the present Gas Division as the nucleus of the pro forma central organization for obvious reasons. Since 1952 the Gas Division has been coordinating the management and operation of the eight gas companies. This organization has shown itself to be an efficient and effective organization for the performance of its functions, which need not be affected by a split between the gas and electric business.

Furthermore, the personnel of the Gas Division are well trained and skilled in the gas business and have intimate knowledge of these particular companies gained through years of experience.

Q. Who was responsible for developing that pro forma central organization for combined operation of the eight gas companies? A. Mr. James F. Simes, Gas Management Consultant, Ebasco Services, although I and other members of the Ebasco [1335] group participated in this study.

Q. This is a very significant item in this supplemental report, and I intend to call Mr. Simes to testify on the central organization and its effect on local executive, administrative, and operational personnel requirements.

I will, therefore, ask you to turn to the local accounting organizations.

What was the basis of the pro forma local accounting

organization for the combined organization? A. The requirements for the local accounting organizations under combined operation, of course, with minor exceptions were quite similar to what would be required for independent operations.

Q. Why was this? A. The pro forma accounting organization for independent operation reflected the breaking apart of the very many joint gas and electric functions such as meter reading, bookkeeping, collection, etcetera, which are the functions where substantial losses in economies were involved.

Q. The supplemental report shows a reduction of \$44,000 in the general accounting area upon combined operation. What is the cause of this reduction? A. Under combined operations the central organization would include a treasury staff that would specialize in insurance, tax, financial and other areas, and would prepare [1336] statistical data and special studies are required by management. The independent gas company pro forma organizations provided for the performance of similar work by the local general accounting groups.

Q. Why is there no change in customer accounting costs in the combined operation as compared to independent operation? A. The customer accounting requirements under combined operation follow very closely the pattern of the actual organization during the test year 1958 with the major exception that electric activities would no longer be performed in combination with gas activities.

Q. Why did you use the independent organization as shown in the Ebasco report as a point of reference? A. These organizations already reflected the elimination of combination electric and gas accounting activities, the loss of services of NEPSO, the loss of advice from NEES management personnel and the severance of the District Treasury organizations. They were, in effect, self-con-

tained units. Using these independent pro forma organizations, it became a matter of considering functions that would be performed by the central organization that had been provided for in the independent pro formas.

With this in mind, the local manpower requirements were adjusted to reflect the functions that would be performed by the central organization.

[1337] In the general accounting area, the changes in the local groups reflect the results of centralizing certain specialized functions and some joint operations at field locations.

Q. What about stores accounting? A. The personnel requirements for stores activities under combined operations would be less than that required under independent operations. The principal reason for this is that the purchasing function would be performed by personnel of the central organization. Basically, this accounts for the reduction of \$31,500 in stores accounting costs under the combined operation.

Q. Mr. Quig, did you consider in connection with this study the possibility of centralizing treasury and accounting to a greater degree than you have projected in the Supplemental Report? A. Yes, we did, sir, and we concluded that in our judgment the organization in the form it has been presented in this Supplemental Report is a sound and reasonable one, and in general is the type of organization which we would recommend for combination of these companies at the outset. Of course, it is possible that in time further centralization might prove useful. However, based on our own experience, and on continuing study of this type of reorganization by the NEES system itself, it is by no means clear that economy [1338] lies in that direction. This would depend upon such factors as business growth, new developments in accounting mechanization and others. However, I can say that one of the

disadvantages of separation of gas from electric is that it might postpone the time when the size of the applicable business units would justify such movement in the direction of centralization.

Q. Mr. Quig, turning to the summary sheet at the back of the supplemental report, marked for identification as Exhibit 91, let us consider the major items of difference shown therein. What does the summary show? A. The first column sets forth a summation of the net effect upon income accounts before Federal income tax which would arise upon severance of each of the gas companies from the NEES system on an independent basis, and includes all adjustments to revenue and expense accounts as shown in the appropriate section of the gas severance study.

The second column shows the effect upon such income accounts of the projected changes required by the combined operation of these companies.

Q. Please explain why the executive, administrative and staff functions would be reduced by \$83,100. A. This saving is due to the common employment of executive, administrative and staff personnel for all eight companies. However, the \$83,100 does not tell the full story, [1339] since costs are included in this section for the combined central operation which are offset by other reductions in general accounting, stores and professional services. In other words, the new executive and administrative group not only costs less but also performs more functions than do the eight executive and administrative groups for independent operation.

For example, the new executive and administrative group contains a purchasing agent and staff and a general counsel to perform functions mostly left to stores accounting personnel and outside counsel under independent operation.

Q. Will you again explain how the cost of general accounting is reduced by \$44,000? A. As indicated above

the treasury staff of the central organization would assume certain duties which would have been performed by the general accounting groups of the eight independent companies. In addition, certain economies were obtained through joint functions in local offices.

Q. How is it possible for the eight gas companies on a combined basis to perform the stores function at an increase of only \$9500 when on an individual basis this would require \$41,000? A. Under combined operation the purchasing function would be performed by the central organization. Under independent operation purchasing would be included in the stores [1340] function. This change enables us to eliminate personnel assigned to stores accounting for purchasing functions under independent operation.

Q. In the matter of insurance, how is the saving achieved? A. This saving would be effected through placing coverages under one policy as opposed to eight separate policies. It should be emphasized, however, that this saving could only be obtained through 51 per cent common control by a single interest.

Q. Why is there a reduction in the increase in cost of professional services from \$79,800 for independent operation to only \$20,000 for combined operation? A. For legal services we estimated that the Central Organization would incur an annual cost of approximately \$10,000. This covers the cost of outside legal services which would be required over and above the services of the General Counsel. On the other hand, legal services as required by the local companies for independent operation would be reduced in the amount of \$64,000. Auditing expenses, we estimated would be reduced by \$5,800 for the whole system as compared with independent operation. As a result the net effect of combination is a reduction of \$59,800 in the

expenses of the eight gas companies and the Central Organization for outside professional services.

[1341] Q. Mr. Quig, in making this supplemental study, did you consider the extent to which services and functions now performed by the Service Company could be purchased from outside organizations instead of being performed by the Central Organization? A. Yes, we did. I have already described the process by which we determined in our study of the effects of severance on an independent company basis which services and functions could economically be performed by the companies themselves and which they would either have to obtain from outside or forego. We engaged in a comparable analysis with respect to the executive, administrative, and staff functions for the Central Organization.

Q. Why didn't you assume that the eight gas companies operating together on a combined basis would have a service company? A. The answer to that question depends on what you mean by a "service company". In one sense the central organization as projected in our supplemental study can be said to be a service company. We have not assumed a separate corporate organization for it but that is because we have made no assumptions as to particular corporate forms. The Central Organization does include personnel to perform many of those functions of NEPSCO which, in our judgment, it would be economical to have performed for the eight gas [1342] companies on a regular basis, although in many instances on a less specialized basis.

There are some functions which we have assumed would have to be acquired from outside organizations as needed.

Q. As a result of your independent investigation of the economies that might be achieved from the eight independent companies combining into an independent group, is it your opinion, and the conclusion of the Ebasco organization, that the supplemental report reflects all the savings

which might be achieved by a combination of the gas companies? A. It reflects more savings than could be achieved in actual practice. It must be remembered that the report does not take into account any corporate or financial costs of the corporate or other vehicle used to hold these companies together.

Q. Mr. Quig, the table which appears on page 40 of the supplemental report is set up on the basis of showing first the loss of economies resulting from gas severance on an independent company basis, then the losses resulting from severance on a combined basis, and then the difference. Why, in this table and in certain of the testimony which you have given concerning the supplemental report, is there reference to the Ebasco study on an independent company basis rather than comparing all the way through the combined basis with the situation as at January 1, 1959? [1343]

A. If the only purpose of the entire study were to show the effects of severance on a combined basis, the table on page 40 might have been set up on a simple before and after basis. However, for the reasons which have been indicated we were instructed to explore the effects of severance both on an individual company basis and on a combined basis. Since an analysis of the loss of economies on a combined basis requires much of the ground work which is set forth in the study on an independent company basis, it seemed to us to make more sense to follow the independent company basis through to its conclusion and then look at the combined basis.

Q. Would the results of your study of the effect of severance on a combined basis have been any different if you had gone directly from the present situation to severance on a combined basis without your intermediate analysis of the independent company basis? A. No, it would not. The very heart of our study of the combined basis was a determination of which functions these companies

could pool and which functions would still have to be done on an individual basis. This determination was absolutely independent from any of the conclusions which we had reached in our study on the independent company basis. We looked at each function which had to be performed for or by these companies and decided in each case which method would be the most economical, and the soundest from an administrative and [1344] operational point of view.

An examination of the supplemental report will show this.

In the executive and administrative area, for example, we determined that there could usefully be a central organization and proceeded to set up what seemed to us to be the soundest organization. On the other hand, in the customer accounting area where our detailed analysis of the best way of performing this function convinced us that it would not be efficient to perform on a joint basis we naturally enough made use of the basic work that we had done in connection with the independent company study.

Q. To summarize then, Mr. Quig, if I understand what you are saying, you used the independent company study as source material where the work you had done was applicable, but that your results as shown in the supplemental report were no different than they would have been had you started from scratch and gone directly to an analysis of the effects of severance on a combined basis. A. That is exactly correct, sir.

Q. Now, Mr. Quig, earlier in your testimony on the supplemental report you stated that one of the assumptions on which you proceeded in making this supplemental study was that the eight gas companies would continue as separate corporate entities. Would it make a material difference in [1345] the extent to which economies would be lost by severance if the combinations went to the extent

of putting the companies into a single corporate unit? A. No. The difference would not be material. The only difference that would amount to anything would come in the general accounting area where it would not be necessary to maintain eight separate sets of books.

Related to this would be the saving from having only one corporate entity required to file reports with regulatory agencies as well as reports to management, stockholders, and the like.

As I have indicated, even these savings are not material.

Furthermore, in my opinion, an assumption that these companies could or should be put together is somewhat unrealistic. Putting these companies into a single unit would require approval of the Massachusetts regulatory authorities and this Commission.

Furthermore, it would entail major financing problems. Advantageous terms of existing indentures would be lost, and, in general, to the extent that economies could be realized from wiping out these corporate lines, the same economies—in fact, even more so—would be achieved by doing the same thing to these companies today within the NEES system, once other obstacles to this had been removed.

[1346] Mr. Quarles: Mr. Examiner, at this point I would offer the supplemental report on gas severance as Respondents' Exhibit 91, but in view of the fact that ruling on the original report has been reserved, I would certainly not press for determination on this at the moment. I am glad to have the ruling reserved.

Hearing Examiner Ewell: If assume, Mr. Nowlin would want an opportunity to examine it before any ruling is made.

Mr. Nowlin: Yes, your Honor.

Hearing Examiner Ewell: And it will therefore be

marked for identification at this time and the ruling on its reception reserved.

Mr. Quarles: Yes, sir.

I think this is a good point for a break, and with your permission, sir, I would ask to have Mr. Quig excused.

Mr. Nowlin: I would like to ask him two or three questions.

Mr. Quarles: Certainly.

Cross Examination

By Mr. Nowlin:

XQ. Mr. Quig, why did you in your assumption on the combined companies assume a 51 per cent stock ownership rather than 100 per cent? A. That was the point which we knew was the minimum [1347] point that, from an insurance point of view savings could be obtained.

XQ. It would make a material difference in the tax consideration involved, would it not, where they could file a consolidated tax return? A. We only concerned ourselves with the operating expense aspects of this.

XQ. In making your computations of the combined companies did you make any comparison with other non-affiliated companies operating in Massachusetts, that is, with respect to the personnel required? A. The eight combined?

XQ. Yes, sir. A. We had available to us the various reports made to the Department of Public Utilities by the various Massachusetts gas companies.

XQ. In setting up your pro forma chart appearing on page 4 of your supplemental report, did you make any comparison of the executives appearing on this chart with those actually employed by nonaffiliated companies in Massachusetts? A. Only in a general way. We felt, from our own point of view, Ebasco's point of view, that every organization needs a head and also somebody behind him,

an executive vice president, and then fanned out pretty much the way you see it there; various other companies, most gas companies I know of, [1348] generally follow this type of set-up more or less.

XQ. You made no comparison, though, with other Massachusetts companies to determine whether or not these officials were in line with what was actually employed by other gas companies? A. I would say that they were generally, yes.

Mr. Quarles: Pardon me.

But, as Mr. Quig testified, this was an area that was primarily developed by Mr. Simes, who will come on for testimony later and be able to give more detailed information.

Mr. Nowlin: I beg your pardon, Mr. Quarles. It was too much for me to assimilate here, sitting and listening.

Mr. Quarles: We have no objection to your questioning Mr. Quig on it, but note that Mr. Simes is to be a source of more detailed information.

By Mr. Nowlin:

XQ. Looking at the results appearing on page 40 of your supplemental report, do you know whether there would be any substantial difference in the estimates appearing on this page as compared with the actual cost of running the gas companies at the present time or during the past year? A. Well, these are costs over NEES system costs for the year 1958.

XQ. What I am trying to get at is: If you were to total up the same items for the operations of the eight companies [1349] for the year, say, 1959, would the total amount be less or greater than that reflected on your estimate on page 40? A. Going back to my original point in both cases here, the comparison, both of these comparisons, eight companies independent, eight companies combined, indicate an increase in one case of \$1,495,000 and in the second case

\$1,165,000 over what the costs under present NEES system operation.

XQ. I beg your pardon. I think you stated from the operation's viewpoint, it would not make much difference whether these companies were merged into one company or consolidated or what-have-you. A. That is correct.

XQ. Than if they were combined. If the eight companies were combined. Is that correct? A. Yes. We carried through and assumed the main chance of the eight separate corporate entities.

XQ. Do you know whether not these individual companies, or the eight gas companies, rather, financed part of their requirements through issuance of debt securities themselves? A. Presently they do, yes.

XQ. Were you asked to make any estimate of the cost on raising capital on the consolidated company basis as compared with the cost of raising capital on an eight-company combined basis? A. No, sir, we were not.

[1350] Mr. Nowlin: I think that is all I have at the present time, Mr. Quig.

Pardon me. Just a minute.

By Mr. Nowlin:

XQ. Mr. Quig, directing your attention to NEES Exhibit No. 59, Adjustments to Statement of Income of Eight Massachusetts Gas Companies Owned by NEES Caused by Severance of Gas Business—you have available a comparable compilation assuming the combined companies?

A. No, sir, I do not.

Mr. Nowlin: Mr. Examiner, I am going to request that the company prepare a similar statement showing the effect of the combined eight companies, that is reflected on this Exhibit No. 59 with respect to the eight independent companies.

Hearing Examiner Ewell: the Respondent agreeable to preparing such an exhibit

Mr. Quarles: I would think that we would get along a little better if these requests for things that they wish us to prepare and put into the record as our exhibits were discussed with us. It is certainly our intent to make available figures that are available to us and to assist them in the matter of preparing exhibits, but I, frankly, am not enough of an accountant and do not know enough about the financial aspects of it to answer these requests without checking with [1351-52] our accounting people just what can be done. And I would expect that that is something that we can do. But I would like an opportunity to check in each of these cases on matters of requests for additional exhibits.

Hearing Examiner Ewell: You could advise counsel later in the day or in the morning, could you not?

Mr. Quarles: Oh, yes, certainly, sir. At any time if they wish additional material, if we know what it is, we will be glad to do our best to cooperate with them.

Hearing Examiner Ewell: You do not want to reserve an exhibit number for it now, do you?

Mr. Nowlin: No, sir. I was just making this what I thought an assistance to counsel for the company. We could hold all of these until we get through and analyzing, comparing all of these statements, and ask for them.

Mr. Quarles: Ask for them as you go along as you wish.

I am glad to be apprised as long as I am not obliged to give you an answer when it involves something that I do not know the answer.

Hearing Examiner Ewell: It may not loom so large, too, if it is done as we go along rather than to have them requested all at one time.

By Mr. Nowlin:

XQ. Mr. Quig, I think in the course of your previous [1353] testimony, you indicated that you had made a study

of other companies in the area on reaching some of your conclusions.

Were those the same twelve nonaffiliated companies that your associate identified here earlier today? A. Yes, we used those.

XQ. You don't know whether that was all of them or not that you used? A. I would say generally those were the ones that we considered as the major companies in Massachusetts.

XQ. Do you happen to have a copy of the companies that you were referring to there in your previous testimony and could that be made available for the record? A. I would refer to the same companies that Mr. Johnson referred to.

Mr. Nowlin: That is all I have at the present time.

Hearing Examiner Ewell: I wonder if counsel for the Massachusetts Public Utilities Commission would have any questions of this witness?

Mr. Murray: No, we do not, your Honor.

Hearing Examiner Ewell: Do you have any comment? I understood you are leaving this afternoon.

Do you have any comment to make before you leave?

Mr. Murray: The Chairman of the Commission is here to testify, and I think he will have an opportunity to answer that question himself.

[1354] Mr. Nowlin: Would you wait just one minute?

Mr. Quarles: Could Mr. Quig be excused?

Hearing Examiner Ewell: Yes.

(Witness excused.)

Whereupon,

FRANCIS X. LANG

was called as a witness for the Massachusetts Department of Public Utilities and, after being first duly sworn, was examined and testified as follows:

Hearing Examiner Ewell: Give your name to the reporter.

The Witness: My name is Francis X. Lang.

Direct Examination

By Mr. Murray:

Q. Will you please state your name, address, and occupation. A. My name is Francis X. Lang. I live in Wellesley, Massachusetts, and I am a member of the Bar of Massachusetts and Chairman of the Massachusetts Department of Public Utilities.

Q. When did the Massachusetts Department of Public Utilities become aware of this proceeding? A. In August 1957 the Department was served with a copy of the Securities and Exchange Commission's notice instituting this proceeding against New England Electric System and its subsidiaries.

[1355] Q. Would you give briefly the reasons for your appearance here at this time? A. The Massachusetts Department of Public Utilities is, of course, vitally interested in the affairs of the Massachusetts subsidiaries of the NEES system, whether they be in the electric business or in the gas business.

We have conferred with NEES system officials from time to time with respect to the issues raised in the proceeding and have considered the matter in executive sessions. We were particularly concerned with the adverse effect which the severance of the gas properties from the NEES system would have and, accordingly, our written notice of appearance was filed with this Commission shortly before the convening of the hearings with respect to the issue of the retainability of the gas properties as a part of the NEES system.

Q. Please tell the Hearing Officer whether you are appearing as an individual or as an authorized representative

of the Department. A. I am here on behalf of the Department. I was authorized to appear before this Commission and to give the Department's views and Mr. Murray, who is one of our Commissioners and an attorney, was authorized to be the counsel for the Department in this proceeding.

Q. What is the Department's position in this proceeding?

A. As stated in our notice of appearance it is the [1356] position of the Department that the economies of joint operation of gas and electric properties by the NEES system are substantial, that a separation of such joint operation would be adverse to the interests of the residents of Massachusetts and may necessitate increased gas rates as a result of the apparent substantial additional expense flowing from the separation of such joint operation and that, under the provisions of Section 11 (b) (1) of the Public Utility Holding Company Act, specifically clauses (A), (B), and (C) thereof, the gas utility companies of the NEES system may be retained under common control with the system's integrated electric utility system.

Q. Mr. Lang, will you briefly describe the nature and scope of the Department's regulation of the gas and electric business in Massachusetts? A. Broadly speaking, under the Massachusetts statutes the Department is charged with the general supervision of gas companies, electric companies and combination gas and electric companies—with few exceptions, most of the things I will say apply to all three types of companies—and is directed to make investigations to assure that they are conducted in a manner consistent with the public safety and convenience. More specifically, the Department has and exercises regulatory powers with respect to rates, service standards and extensions, accounts, depreciation, records and reports, and financial [1357] and corporate matters including security issues, mergers and sales of property. The Department has power under the statutes to adopt rules and regulations

to implement its regulatory control in many areas. I'd like to add that in testifying here I may use the word "utility" to cover electric, gas and combined electric and gas companies, business and service.

Q. What is the nature and scope of rate regulation of utility companies, using the word "utility" in the same sense as you are using it? A. Every utility company must file rate schedules and proposed changes therein with the Department and all rate charges must be in accordance with such schedules. The Department has power to investigate, suspend and reject proposed rate changes. The Department also at any time may consider the propriety of existing rates and may order a change in the price of gas or electricity.

Q. Will you state briefly the nature and scope of Massachusetts regulation of service standards and extensions? A. The Department has the power to establish safety and service standards for utility companies and to require line extensions in appropriate cases. The Department may order a utility to supply gas or electricity in bulk or otherwise upon reasonable terms. The Department may order an improvement in the quality of the gas. The Department is [1358] charged with the responsibility of inspecting and regulating the gas distribution as to quality, purity, calorific standards, storage, transportation and techniques of distribution. The Department has powers to determine the accuracy of gas and electric meters. It is authorized to investigate all accidents.

Q. What powers does the Department have as to accounting, records and reports? A. The Department has the power to prescribe and has prescribed uniform systems of accounts which must be followed by utility companies.

I might point out that while our uniform systems are not identical with those of the National Association of Railroad and Utility Commissioners or of FPC, they embody many

of the same principles. The Department may examine all physical properties and all books, records, documents and other papers of utility companies. Utilities are also required to supply annually, on forms prescribed by the Department, full information regarding their condition, management and operation, and from time to time such other relevant information as the Department may request.

Q. Will you describe generally the nature and scope of Massachusetts regulation of transactions and relations between affiliated companies? A. The Massachusetts statutes define an affiliate of a utility company as one which controls the utility of [1359] or is under common control with it or which stands in a relation with it which is characterized by an absence of equal bargaining power. This broad definition obviously includes not only commonly controlled utility companies but also affiliated service companies and holding companies. The Department is empowered to supervise all such affiliates with respect to their direct or indirect relations and dealings with utility companies and to examine the books, records and physical properties of affiliates or to require them to make annual or periodic reports on forms designated by the Department. The Department also exercises control over contracts between utility companies and their affiliates.

Q. What powers of regulation does the Department have over utility financing? A. The Department has and exercises power to regulate the issuance of securities by utility companies. Department approval is required prior to the increase and issuance of stock, bonds or other evidences of indebtedness with maturities of more than one year. Prior to approving any stock or debt issue the Department must find that the proposed issue, in amount, is reasonably necessary for the corporate purpose indicated by the petitioners. With respect to stock the Department may reset the sale price if it determines that the price fixed by the

Directors is so low as to be inconsistent with the public interest. Bonds may be issued only up to an [1360] amount equal to the aggregate of surplus, paid-in capital stock and cash premiums thereon and must be sold at competitive bidding unless we grant an exemption. The Department may order the correction of any capital impairment or inadequacy in the provision made for depreciation. Also in the area of financial regulation, no utility company may loan its funds or invest in the securities of others without approval of the Department.

Q. Mr. Chairman, what are the Department's powers with respect to the sale and purchase of utility properties and to mergers and consolidations? A. A utility company may sell its properties to another or merge or consolidate with another, but only with the approval of the Department after its determination that the transaction and the terms thereof are consistent with the public interest.

Q. Do Massachusetts statutes permit a gas company to merge or consolidate with an electric company, or vice versa? A. Yes. Such mergers or consolidations are permitted under the same statutory standards as apply to similar transactions involving only gas companies or only electric companies. The result of such a merger or consolidation is what we call a combination company, that is, a single company doing both an electric and a gas business.

Q. Does Massachusetts law permit the organization of a new [1361] company with charter power to do both a gas and an electric business? A. Yes. Such a company may be organized provided the Department approves.

Q. Is it lawful in Massachusetts for a combination company, that is, one doing both a gas and electric business, to separate by selling off either its gas or electric properties and franchises? A. Yes. Here, too, the same statutory standards apply as in cases of merger; that is, the DPU approves the separation only after finding that the trans-

action and its terms are consistent with the public interest.

Q. Mr. Lang, I have asked you to give the regulatory powers of the Massachusetts Department of Public Utilities in various areas. Do you have other powers? A. Yes, but I think we have touched on the principal ones—particularly the ones which pertain to the joint versus separate operation of the gas and electric businesses.

I might add that our powers to regulate mergers, et cetera, are supplemented by our power to regulate companies extending their business into other cities or towns. The franchise right to do business in a given area is a matter governed by the Massachusetts laws and our regulations.

Q. In your opinion are the statutory powers of the DPU adequate to regulate effectively the gas and the electric [1362] companies in Massachusetts? A. Yes. Massachusetts has always been a leader among the States with respect to comprehensive regulation of utility companies with the goal of assuring satisfactory utility service, reasonable rates and a fair return to investors, and in my opinion the present regulatory pattern is entirely adequate to protect the public interest.

Q. Are your regulatory powers exercised only at such times as formal cases are brought before your Department, such as rate cases, financing cases, merger cases, et cetera? A. No. At the time of any principal case our attention of course is focused upon the particular issues involved, but our regulation of the gas and electric businesses in Massachusetts is constant. We have accountants, engineers and lawyers on our staff who are constantly reviewing and analyzing the various reports and information which are filed with us and who take frequent trips visiting and investigating the utilities under our jurisdiction. We are the regulatory officials to whom the public can come for information on the utilities and we have a constant flow of calls and visits from State and local officials as well as from

the public. Our regulation with the utility business is a continuing day by day affair.

Q. You mentioned a few minutes ago that there are single business gas companies which are not combination gas [1363] and electric companies but are under common control with one or more single business electric companies. How many gas companies in Massachusetts are either combination gas and electric companies or straight gas companies under common control with electric companies?

A. Out of 26 companies doing a gas business in Massachusetts, 16 are either combination gas and electric companies or gas companies under common control with electric companies.

Q. Is it against the Department's policy for both gas and electric businesses to be carried on by combination companies or by single business gas companies and electric companies under common control? A. No. Of course, we consider each case on its own merits in the light of the respective interests of the consumers, the investors and the public. But in the absence of compelling reasons to the contrary we would not oppose the combination operation of the gas and electric businesses?

Q. I take this to imply that in Massachusetts joint ownership or operation of gas and electric utilities is in no way contrary to public policy? A. That is definitely so.

Q. Referring now to combination companies alone, has it been the experience of the Department that regulation of the gas or electric operations of such companies has been hampered by the fact that in such organizations the two utility [1364] services are rendered by one corporation? A. No. Regulation of the gas and electric operations of combination companies has been fully as effective as regulation of single business gas or electric companies. The uniform systems of accounts require separate accounting for the two departments of a combination company. In

rate cases involving combination companies the Department has always taken the position that rates for service furnished by the two divisions of a combination company must stand on their respective merits as separate proceedings regardless of the overall earnings of the company. Other aspects of regulatory control are equally unobstructed by the fact of combination.

Q. From the point of view of the regulatory agency of the Commonwealth, are there benefits resulting from the gas and the electric businesses in a given area being carried on by one combination company or by two separate companies under common control?

In answering this question you might refer to the situation of the eight gas companies which are a part of the NEES system. A. We recognize the economies of the eight gas companies being part of the NEES system. We further recognize that some of these economies flow from the fact of joint operation with the electric business and some of them flow from [1365] the fact that the gas companies are part of a large organization with a reservoir of personnel, property and funds. We are aware of the financial standing which the NEES system has and of their experienced executives and specialists who are able to effectively handle the complex matters that arise from time to time and who participate in the development of new methods and procedures.

Q. Do you find the regulation of companies as subsidiaries of NEES to be harder than it would be if they were independent? A. On the contrary, we find it easier. Of course, it is obvious that our problems are eased if we can work out a situation once for a group of companies rather than once for each of several companies. But in addition we find that working with NEES officials and personnel enables us to develop sound policies applicable to both gas and electric operations. If the gas properties were to be

separated from the NEES system we would lose the benefit of the skills and knowledge of the NEES personnel. Not only would our regulatory problems increase, but our regulation would be less effective.

Q. Have you found the NEES system in so far as its Massachusetts properties are concerned—both gas and electric—to be so large as to impair the advantages of localized management, efficient operation or effectiveness of management, efficient operation or effectiveness of regulation? [1366] A. We have not.

Q. Do you feel that the combination of the gas business with the electric business within the NEES system has resulted in one business being suppressed or slighted in favor of another? A. We do not. In fact, our experience with the NEES subsidiaries indicates that each business has been aggressively developed and efficiently operated. I suppose the best evidence of this is that the gas and electric businesses of the NEES system have each grown at a rate which is good for our area.

Q. Mr. Chairman, have you been in attendance at these hearings since they reconvened on May 18, 1960? A. I have.

Q. Does the testimony which you have heard alter your Department's position as stated in the notice of appearance? A. No. All of the testimony is consistent with our own conclusions as to the importance of retaining every possible economy for these gas companies in Massachusetts and confirms our opinion that keeping the gas and electric together is one sure way of continuing real economies.

Q. Would you tell us the basis of your Department's conclusions? A. Yes, but to understand what it would mean to have [1367] these eight companies taken out of the NEES System I will have to say a few words about the particular situation of the gas business in New England. We are at the end of the gas pipeline and the cost of purchased gas is higher than in any other part of the country. The comparative figures which have been intro-

duced to show this merely set forth graphically the basic situation of which our Department is acutely aware and with which we are seriously concerned, for they show that the whole structure of the gas business in New England is different than in other parts of the country. Not only do the gas distribution companies in Massachusetts pay substantially more for their gas than companies in other areas, but in addition they have other problems. Because there are no natural storage facilities and the cost of above-ground storage is prohibitive, Massachusetts companies cannot obtain the benefits of phasing their purchases and sales of gas in the most economical way. What it means is that our companies have to buy proportionately more gas at the high demand rate level than is true of companies in other parts of the country which have storage facilities. It is a serious problem.

It is also true that oil prices are relatively low in Massachusetts—naturally enough because of easy access to ports. This simply means that the Massachusetts gas distribution companies subject to the control of our [1368] Department are in an economic squeeze for the principal market—that of home heating—a unique position, in these United States, for a gas distribution company to be in.

Q. What is the significance in this proceeding of what you have just said, Mr. Lang? A. Well, I would summarize it this way: Of course, you can distinguish one part of the country from another on all sorts of bases—the rates they pay for different fuels, physical characteristics and other relative advantages and disadvantages. This is one of the economic facts of life which anybody in this business and any regulatory authority lives with. However, the difference in the economic position of gas companies in Massachusetts from those in other parts of the country is, in our opinion, not a difference in degree but a difference in kind.

Q. What do you mean by that? A. In other parts of the country—even for example in the New York area—there is a significant margin between the cost of gas purchased by the distribution companies and the prices at which it can be sold. When you get to New England the margin has become so narrow that there is simply no cushion. Any loss of economy must be reflected either in increased rates or cutting down of service. And the competitive situation is already so tight for gas that any rate increase is a most serious matter.

[1369] Q. But it is true, is it not, Mr. Lang, that there are gas companies which are operating successfully in your area without being part of a system such as NEES?

A. Of course that is true—although the word “successful” is a relative matter. The point is that each of these gas companies has its own particular background and history, its own problems as to franchise areas, expenses, and its own standards as to service.

Taking into consideration the problems and situations in which they have developed over the years, these eight gas companies today generally operate on a sound efficient basis under our supervision and regulation. But, we do have economic problems with some gas companies, as might be expected in this area of intense competition with which the gas companies are faced.

One of our gas companies in the Connecticut Valley has recently been through bankruptcy. It has since been converted to natural gas and taken over by another gas company in the western part of the Commonwealth.

In other cases it is obvious that some of the independent companies suffer from not having the economies of being part of a system such as the NEES system.

We are satisfied that in this proceeding the only fair test for considering the effect of losses of economies is to

look at the eight NEES gas companies as they stand today.

[1370] Q. More specifically, Mr. Lang, on what basis is your Department concerned about the problem of losses of economies which would result from severance of the gas companies from the NEES system? A. I think it is obvious from what I said. Without an adequate margin to cover loss of economies, I would expect that the gas companies would have to ask for rate increases. If they did and such increases were granted, their competitive positions with other fuels would be even worse. This is a vicious circle the results of which all of us recognize—for example it is one which we have witnessed with great unhappiness in connection with commuter service both in our area and in other parts of the country.

Quite aside from the competitive situation it appears to us that taking these companies out of the NEES system will impair the level of service they now can give their customers. There are a number of conveniences which consumers get from joint operation, but more important these companies as part of the NEES system get the benefit of specialized services which are of direct benefit to consumers and which would be lost by separation.

Q. Mr. Lang, are you familiar with the reports and testimony of Ebasco Services as presented in this proceeding? A. Yes, I am.

Q. Would you give us your conclusions on them? [1371] A. Yes. But, first, let me say that we have not made an exhaustive examination of the reports. However, on the basis of our review of them while these hearings have been in progress and on the basis of the testimony which has been given, I can say that the conclusions which Ebasco reached are about what we would expect from our intimate knowledge of the companies and their operations.

Q. Is what you have said about the effect of the loss of

economies applicable to the situation if the eight gas companies were operated on a combined basis as well as if they were operated independently? A. Yes, it is. Although the losses of economies would obviously be somewhat less, if such a combined operation were possible, the significant savings come from the combination of gas and electric in such areas as customer accounting, meter reading, and the like.

Q. Have you heard the testimony and reviewed the evidence in this proceeding with respect to the consolidated tax savings which would be lost by the gas subsidiaries of NEES if they were to be severed from the NEES holding-company system? A. I have. And it would be a substantial loss of savings which, under our rate-making principles in Massachusetts, would eventually be borne by the consumers. In setting the rates for these gas companies, we allow recovery of only those [1372] Federal taxes as are actually paid by them.

In other words, the consumers get the benefit of the consolidated tax savings.

Q. Now, Mr. Chairman, would you state your conclusions as to whether you believe severance of these companies from the NEES system is appropriate? A. We believe such severance would not be appropriate. As I understand it, there are three tests involved which are commonly referred to as the A, B, C, tests. It is too obvious to require elaboration that the area test is met. I can tell you with confidence and finality that regulation of these companies does not present any problem because of their inclusion in the NEES system—in fact as I have mentioned earlier—quite the contrary.

The heart of this matter seems to be whether substantial economies would be lost by severance. It seems to us that the word “substantial” must mean substantial in relation to the overall situation of the companies. Based

on what I have said earlier I think it is clear that we believe that the loss of economies which would result from removal of these eight companies from the NEES system—whether they went out independently or together or some one way and some the other—would be not only substantial but very substantial in relation to the position in which these companies find themselves.

[1373] Q. In the opinion of your Department would there be any offsetting advantages from severance? A. We are aware of the type of problem which the Public Utility Holding Company Act was designed to meet and the advantages sought from separate operation. These simply are not applicable to the situation of these particular gas companies, and therefore, we believe that no significant offsetting advantages would be realized.

Q. Would you then state, Mr. Chairman, what the position of your Department is? A. Yes. The Massachusetts Department of Public Utilities is strongly opposed to this Commission's entering an order severing or directing severance of these eight gas companies from the NEES system.

Mr. Murray: Thank you.

Your witness.

Cross Examination

By Mr. Nowlin:

XQ. Mr. Lang, referring to the notice of appearance and answer which was filed in this proceeding under your name, bearing the date of May 9, 1960, could you tell me what specific facts you had available to you which formed the basis of your statement that there will be a substantial loss of economies if the properties were separated from the NEES system? [1374] A. Yes. We had been in general discussion with representatives of the NEES system, with members of our Research and Rate Departments and

our Accounting Department for the loss economy and figured that the loss from consolidated operation of administrative force and accounting and meter reading would run substantially over \$700,000 or \$800,000. At that time, we were satisfied that would be the minimum figure from our judgment and talking with the men in the office. Since then and having in mind the Ebaseco report it runs somewhere between \$1.4 million under the least favorable circumstances to NEES and \$1.0 million on the other hand as I think page 40 of your Exhibit 91 for identification sets forth today.

XQ. At the time of your filing of notice of appearance, did you have available to you any report by members of your staff which formed the basis for this conclusion?

A. No. It was in conferences between members of the staff and the Commission drawing on their intimate knowledge of the companies and their methods of operation. It was—put it this way—an inescapable conclusion that did not justify or require or warrant direct research at the time.

XQ. Would it be fair to say, then, that your staff or your Commission had not made an expert study of this problem on its own initiative? A. No, I don't think so. I say we make continuing [1375] studies. We are fully conscious at all points, we may not have developed precise mathematical reports but we were certainly fully conscious of the impact such an action would have upon the consumer economy of these gas companies.

XQ. None of those conclusions have been reduced to writing? A. No, they have not, no.

XQ. At the time you were preparing this notice of appearance, were you or your associates on the Commission familiar with the congressional policy underlying the adoption of Section 11 of the Act? A. Yes.

XQ. Pardon me—and the Commission's opinion inter-

preting the various provisions of Section 11(b)(1)? A. To a degree, yes.

XQ. You would not consider yourself to be an expert on the interpretation of Section 11(b)(1), would you?

Mr. Murray: Would you like him to define "expert," Mr. Witness?

The Witness: No.

Let me put it here if I may say that, for some fifteen years, I served as counsel to four or five Massachusetts legislative committees drafting acts, interpreting acts, and in the same period I have answered to some five different Governors on over one thousand pieces of legislation, [1376] interpreting and pointing out defects or imperfections to existing law that these related to.

So I believe I have a sense of the nature of the construction of the statute and the manner of its interpretation.

If I may, sir, digress for a moment, I am also aware of the over-dedication that staff members can have to the interpretation of a statute.

By Mr. Nowlin:

XQ. Is that from experience? A. Yes. I have had to reprimand several subordinates for looking at the law through a keyhole and causing terrific trouble when a broader approach and better perspective would eliminate it.

XQ. You still want your staff to develop a record on which the Commission acts on for intelligent judgment, do you not? A. Are you referring to the instant case?

XQ. I was talking about the staff. A. I am sure I do not understand the import of your question.

XQ. I think you made the statement that you had to get after the staff members for being too diligent. A. You are referring to that. That is not in this instant case, Mr. Nowlin.

[1377] XQ. Has the State Commission. Mr. Lang, gener-

ally been favorable to the mergers and consolidations of small utility companies in the State of Massachusetts?

A. I wouldn't attempt to evaluate the judgments of former Commissions. There have been no mergers specifically, to my knowledge, that I was aware of. We have every confidence. We do not put the label of suspicion on our utility companies. They operate in a fish bowl. We have over 5,000 local officials that want to practically know the time the president reports for work in the morning and how they handle their vacations and overtime. Every detail and every aspect of the administration of these utilities is subject to constant inquiry and almost intrusion by members of the public, local elected officials and representatives to the legislature.

XQ. Frankly, Mr. Lang, what I was thinking about was the NEES system itself. I am not too familiar with the past history of NEES but if I recollect correctly there were some 40 or 50 companies in the NEES system at one time or maybe more. They have been reduced through mergers or consolidations down to quite a substantial number. Isn't that a fact? A. I couldn't agree with you. I couldn't disagree with you, sir.

XQ. Were you on the Massachusetts Commission at the time the Lynn Gas and Electric properties were separated a year or [1378] two ago? A. Yes.

XQ. Your Commission approved that separation, didn't it? A. Yes.

XQ. That creation of a separate gas and electric company? A. Yes.

XQ. Now, in determining the impact upon the public interest in Massachusetts, have you or your staff made any efforts to appraise any savings in the cost of capital if these gas companies were one company rather than eight? A. You mean one consolidated company rather than eight separate companies?

XQ. Either that or if you had them under one ownership and control and financed at the top. A. To ask me what is the cost of capital today is to ask me one question. To ask me what it will be a year from now is another question. We know there are advantages from group financing, from large sums being offered a single time, that there are advantages that way. We know this, too. If NEES system were to sponsor a financial offering that would probably have a better impact upon the market than a mere integrated eight companies.

We generally feel, from my experience and I have had eleven years in a bank, and my experience is that the larger offerings find a more select group of brokers and investors [1379] willing to go for them. The larger offerings generally do not reach the market unless there is a pretty good idea that they are going to be absorbed.

These companies are careful not to risk their reputation by not having an offering, except at a figure that is fairly comparable to similar sized offerings in other areas, about the same point in time.

XQ. The point I was trying to bring up is this.

As I understand it, these eight gas companies now finance their debt segment on each individual company, isn't that correct? A. Basically, yes.

XQ. Don't you think you would be more economical to raise the debt segment of their capital requirements if they were merged into one good-sized company than it would be to have eight separate companies? A. I believe that the reputation that the NEES has for sponsoring and constantly reviewing management is about the best guarantee that a purchaser of debt issues of one of these or all of them would have, and that separated from the NEES sponsorship they would not be in as favorable a situation as they are in today.

XQ. Have you given any consideration to the fact that financing the gas companies by NEES may, in effect, be a subsidization by the electric consumers to the benefit of [1380] the gas consumers? A. We have thought of it but we don't find any evidence of it.

If I may suggest at the moment I had this in my pocket. It is a letter from one of the State Senators and if I may read it into the record:

"Dear Mr. Lang:

"I have received many complaints from my constituents in Lawrence and Methuen with regard to the recent increase in the rate charged to consumers of Lawrence Gas Company. They are incensed at the fact that the rates were charged so arbitrarily without any hearing be held to allow the public to voice itself."

Actually those are purchase price adjustments under the contract which passed along with the natural gas increase to the Federal Power Commission. But that is the type of thing that we are constantly meeting. He will come down and I will spend a half hour or some members of the staff will go over all the papers and satisfy him that no public interest would have been benefited with the time the Commission consumed in having a public hearing because it would amount to impairment of already low earnings for them to absorb the loss.

XQ. I see. At the time you were preparing the notice of appearance and answer, did you have a copy of the Ebasco report which has been introduced in this proceeding? [1381] A. No, we didn't. We had been apprised since of the preliminary conclusions that seemed to be pointed up by the study. That came to us through the NEES officials. But we had not the formal report as we have it here today.

Mr. Nowlin: I have no further questions.

Mr. Murray: In the light of Mr. Nowlin's rather exhaustive cross examination, would it be out of order to ask if Mr. Lang could be permanently excused from these proceedings?

Mr. Nowlin: I think we could almost state almost certainly that that would be the case. I do not know of anything further to ask.

I assume if we had something important, Mr. Lang would be available.

Mr. Murray: If it were real important and it was going to jeopardize your position, we would come down here.

Mr. Nowlin: I do not anticipate that.

Mr. Murray: We take it, then, we are excused.

Hearing Examiner Ewell: With that understanding he will be excused.

(Witness excused.)

Hearing Examiner Ewell: Do you have another witness this afternoon?

Mr. Quarles: Yes, if we could have a short recess.

Hearing Examiner Ewell: We will take a little [1382] break at this time.

(Short recess.)

Hearing Examiner Ewell: All right, gentlemen.

Let us resume, please.

Mr. Vorenberg: Mr. Simes has not been previously sworn in this proceeding.

Whereupon,

JAMES F. SIMES

was called as a witness and, after being first duly sworn, was examined and testified as follows:

Hearing Examiner Ewell: Give your full name, please.
The Witness: James F. Simes.

Hearing Examiner Ewell: How do you spell that?

The Witness: S-i-m-e-s.

Direct Examination

By Mr. Vorenberg:

Q. Mr. Simes, what is your business address? A. My business address is 2 Rector Street, New York City.

Q. Would you outline your background and experience? A. I have a Bachelor of Electrical Engineering Degree from New York University. In addition, I have also taken courses in business administration at both New York University and St. John's University, Brooklyn, New York.

In 1936 I entered the employ of Brooklyn Edison Company [1383] of Brooklyn, New York, which subsequently was absorbed into the Consolidated Edison Company of New York Inc. Except for approximately 4 years in the Armed Forces during World War II, I spent 18 years in the Consolidated Edison Company. During that time I worked in the Sales Department and the System Engineering Department. Approximately one year was devoted to a training program which included working in electric generating stations, gas production plants, electric substations, gas holder stations, the Construction Department, both electric and gas, and the Service Department, both electric and gas.

In the System Engineering Department there were two bureaus, the Planning Bureau and the Forecast & Analysis Bureau. I worked on all phases of load forecasting and system planning for electric, gas and steam. I had many special assignments such as: the preparation of data for electric and gas rate cases before the New York State Public Service Commission; cost allocation studies of New York City subway system and all the railroads which were supplied by Consolidated Edison; studies of projected manpower utilization through a future 20-year period; operating cost analyses for various executives and department heads of the company.

In 1954 I left the Edison Company to enter the employ

of Compania Chilena de Electricidad, a subsidiary of American and Foreign Power Company in Chile, South America. [1384] I was Assistant General Manager of this operating company and during the year that I was in Chile, my primary responsibility was to examine each operating division of the company to optimize the organization and efficiency of operating, engineering, sales and commercial departments.

In 1955 I joined the New Jersey Natural Gas Company, a natural gas distributing company in the State of New Jersey. I was hired to form and organize the Planning and Development Department of which I was the Manager reporting directly to the President and with staff status. In this capacity I was responsible for the preparation of forecast of customer growth, sales and revenues; the preparation of operating and construction budgets for the three operating divisions of the company; determination of pipeline gas supply requirements; planning transmission capacity from pipeline sources to distribution centers; development of peak shaving manufacturing requirements and methods of meeting these requirements; general organizational planning for all departments of the company, operating, engineering, sales, commercial and general accounting. To accomplish this last phase of my duties, it was necessary for me to gain intimate knowledge of the operations of each department. For example, one study included the projected abolishment of one of the company's divisions and integration of all of its operations into one of the other divisions. This required merging all functions [1385] responsible to the division manager including operating department, sales department, customer accounting and collection, engineering and the service department. This study was actually put into effect. As a staff member, I acted in an advisory capacity to all of the executives of the company, including the Vice President in

charge of Sales and Commercial Operations, the Vice President of Operations and Engineering, the Treasurer, the Secretary, and the Director of Publicity.

I was responsible for the preparation and presentation of all data before State and Federal regulatory commissions. I have testified before the Federal Power Commission in the presentation of marketing company data in support of pipeline company requests for certificates of convenience and necessity. I have engaged in extensive negotiations with the FPC staff and pipeline companies in pipeline rate matters.

In the approximately five years that I worked for the New Jersey Natural Gas Company as Manager of the Planning and Development Department, I became involved with every single phase of the operation of a natural gas distributing company. For example, again, I was responsible for space utilization and planning both for company-owned properties and leased properties—I actively participated in several divisional and departmental moves which required reorganization of space in company-owned or leased office buildings [1386] plant buildings storeroom buildings, parking lots, garages and district stores, I was also directly involved in the site location, leasing of and space organization of district stores and also a service center. My department derived the allocation percentages for interdepartmental charges for jointly used space.

In February of 1960, I entered the employ of Ebasco Services Incorporated as a general gas consultant of the Management Consultation Division which is my present position.

Q. Mr. Simes, would you relate your role in the Ebasco study of the effect of gas company severance from the NEES system? A. In conjunction with other Ebasco representatives, I have made a detailed study of the services performed by the New England Power Service Company for the

operating subsidiaries of NEES and was primarily responsible for that section of the Ebasco Report relating to the Service Company.

In addition, I made a study of the gas division of NEES; the executive and administrative organization of all gas operating companies, and the intercompany billing for rentals of jointly used properties, and determined what the effect of severance would be in these areas. In all of this I was assisted by work done by other members of the Ebasco team and, of course, we worked closely with NEES personnel throughout.

[1387] Q. What type of information did you review in this connection? A. All of the information which NEES personnel supplied as outlined by Mr. Quig was available to me at all times.

In connection with the study of the Service Company, we requested specific data for the year 1958 in regard to service contracts, specific requests for service by the gas operating companies, samples of actual bills rendered to gas companies, summaries of all billings in the year 1958 to the gas companies and specific information on payroll of certain types of employees.

In our study of the gas division and the executive and administrative staffs of the operating companies, organization charts and executive payroll data prepared by NEES personnel were extremely helpful.

With regard to the studies of intercompany billings for rental of jointly-used facilities, I had available detailed data which NEES personnel had supplied to the Ebasco team. What I have mentioned is of course only a small portion of the total material we drew on. Mr. Quig has suggested in general terms the type of information we based our work on and what he has said is applicable to my area of the study.

Q. Would you describe briefly how you accomplished the

studies and surveys in the area of your responsibility for [1388] the Ebasco report which has been offered as Respondents' Exhibit 58? A. In general, with regard to the Service Company, I interviewed each department head, and subordinates where necessary, to learn directly from each the organization and staffing of his department and specifically the services which his department was available to perform for the operating companies. Of course, these discussions also encompassed the departments such as General Accounting, Office Service, and Building Service, which perform work for the operation of the Service Company itself.

In making the studies of the Gas Division and the executive and administrative staffs of the operating companies, I talked at length to the executive head of the Gas Division and his assistants. During physical examinations of all the gas company properties, I talked to each local vice president and other local executives as I deemed necessary. With respect to the larger properties, I talked to superintendents and department heads to obtain more detailed information with regard to company operations.

In order to carry out the assignment on rentals I made inspections of all the jointly used properties, studied generally the areas where relocation would be required in the event of severance, and discussed the general range of rents with representatives of local chambers of commerce.

[1389] In general, with respect to all of the work I did, I reviewed my findings and conclusions with other members of the Ebasco team and others in Ebasco who are also familiar with these problems. As Mr. Quig has stated, we consulted at all stages of this work with NEES personnel.

Q. Would you describe in more detail the section of the Ebasco report, that is again Respondents' Exhibit 58, relating to the New England Power Service Company? A. First of all, as Mr. Quig has also stated, the Ebasco report used

1958 as its test year. As NEES witnesses have already pointed out, the organization of the Service Company is different today from what it was in 1958 as a result of an order of the SEC dated December 30, 1959. However, except for the executive and administrative services now offered, the services offered and performed today are the same as those offered and performed for the operating companies in 1958. The Service Company section of the report deals with the organization of the Service Company as it existed during 1958.

From pages 1503 to 1513 in that section of the report are set forth the number and type of staff in each department and a brief summary of the services performed by each department. There are explained in subsection C, pages 1513 to 1515, the methods of billing each operating company for services performed and the various methods of allocating charges [1390] to the individual companies.

Included in the report, in subsection D and related tables, is an analysis of the actual 1958 billings to the gas companies for services performed by the Servicing, Engineering, and Construction divisions.

Q. Mr. Simes, did you draw any conclusions from your analysis of the accounting methods of the Service Company and from the actual 1958 billings? A. Yes, I did. I was impressed by the efficient accounting procedures established and maintained by the Service Company to insure correct and proper charging of costs to the operating companies. I examined the Overhead Ledger of Administrative and General Expenses of the Service Company and the Overhead Ledgers of several departments. These ledgers record in detail the individual items of expense which were allocated as overheads.

In regard to the Construction Division, records were maintained in such a manner as to allocate particular overheads such as use of tools and insurance and taxes to the

types of construction jobs which should bear such overheads.

In general, as a result of my examination and analysis I am satisfied that the manner in which accounting records were maintained and the methods of allocation which were used, resulted in fair and reasonable charges of Service Company [1391] costs to the operating companies.

Q. Would you explain Section II of the Service Company Report; namely, the effect of severance on the Service Company? A. The effect of severance on the Service Company as outlined in the Ebasco report is based on an analysis of each division's staff as it existed in 1958 and of the services performed for the gas companies in that year.

Most of the employees in the Servicing Division were trained and skilled in both the electric and gas utility problems and did not work exclusively on one or the other. In the Construction Division there were only 34 men who worked on both electric and gas jobs and another 2 who worked exclusively on gas; and the balance of the construction forces worked exclusively on electric jobs. In the Engineering Division almost all of the personnel were primarily concerned with work for the electric companies and no one specialized in gas problems because the gas companies had their own engineering group in the gas division.

It is about impossible to identify particular individuals or job classifications for reduction in the event of severance. Consequently, the projections of reductions in personnel by job classification were based largely on a study of the total workload of each department and the type of personnel who performed that work.

[1392] If severance of the gas companies were to become an accomplished fact and a relatively small part of the work load of each department lopped off, it would be a difficult task for management to effect a reduction in per-

sonnel because most of the employees are well trained and experienced in their respective fields. In my opinion management would of necessity have to use seniority as a basis with the result that younger, therefore less experienced and lower paid employees, would be released.

Q. Would you please outline in some detail your conclusions on the effect of severance by divisions? A. Yes, and I will start with the Servicing Division since the major part of the services were performed by that division.

Q. How did you arrive at the particular job classifications which would be involved in a reduction in the Servicing Division? A. As I have explained previously, the primary basis of my estimate of possible reduction was the total work load of the particular departments. In the case of the Audit and Methods Department, they had three field supervisors and seven traveling auditors on the staff who performed internal audits of all the operating companies of the NEES system. Of course, the length of time required to complete each audit will vary with the size of a company but, in general, the [1393] audit staff is roughly geared to the number of companies to be audited and the detail which management and the independent public accountants requires to be audited. Giving effect both to number and size of the respective companies, I concluded that the elimination of annual audits of the gas companies might possibly relieve the need for two of the ten men involved in this work and that these would be the newest and lowest paid individuals in this group. Needless to say, a field supervisor with years of training and experience would not be considered for release.

Q. On what basis did you make the projected reduction in the Purchasing Department? A. In the case of the Purchasing Department, I concluded that one purchasing assistant and two clerks might possibly be released. In 1958 the Purchasing Department had seven purchasing

assistants, which I shall call buyers since it is a term which describes their functions and with which I am more familiar. None of these buyers purchase materials, equipment or fuel exclusively for the gas companies. For example, the man who buys fuel deals with companies which furnish all grades and types of fuel and byproducts and he would be the man to contact companies whether it was for electric generating stations or for gas plants. The same situation applies to steel purchases, merchandise, construction equipment and miscellaneous materials and supplies.

[1394] On the basis of total workload, approximately 13 per cent of Purchasing Department billings were charged to the gas companies in 1958. Using this as a basis, I decided that in the event of forced reduction the Purchasing Department would separate one purchasing assistant and two clerks—actually I have my doubts that such a reduction would be workable.

Q. Mr. Simes, will you now tell us the basis on which you projected the reduction shown on the Plant Accounting, Insurance and Medical Departments? A. In the Plant Accounting, Insurance and Medical Departments I have indicated a possible reduction of four people—an administrative assistant, an insurance clerk, a part-time physician and a secretary. As for the administrative assistant, I believe that one of the two staff members working on employee suggestions could possibly be separated since the work of that group is a function of the number of employees and the suggestions which they submit. In the Insurance and Medical groups I determined that reductions might be able to be made in areas which are related to employee functions. And it is logical to believe that if a part-time physician could be separated that his secretary would no longer be required.

Q. Will you tell us now about the figures for the Treasury, Corporate and Tax Departments? A. In the Treasury

Department I have projected a possible reduction of two accountants and one clerk. In my grouping [1395] under the Treasury Department I included the seven accountants under Treasury on page 1524 of the report and the four accountants under General Accounting on page 1525 of the report. In the event that reduction became necessary, I would expect that one accountant from each group might be separated and that one clerk from the staff of the General Accounting group might be separated. This projection is based entirely on a reduction in workload due to severance.

The effect of severance on the Corporate Department would, in my estimation, result in the possible separation of one of the 10 corporate attorneys and one clerk. This possible reduction is based on the dollar volume of billings performed by the Corporate Department for the gas companies in relation to the total amount of work performed by the Corporate Department and this relation in 1958 was approximately 11 per cent. The decision to project a reduction in the clerical staff by one was based on the relatively close relationship of clerical work to the number of attorneys.

In the Tax Department I have projected the possible reduction of one tax accountant of the seven accountants and technicians that were on the payroll in 1958. This was based on the relationship of operating revenues of gas companies to the operating revenues of all operating companies of the NEES system.

Q. How about the figures for the Safety and Rate Departments? [1396] A. In the Safety Department I have projected a reduction of one of the three safety assistants who were on the staff in 1958. This possible reduction is based on the number of companies which the Department serviced. We chose the number of companies as a basis because of the amount of time spent in field visits to the various companies and the statistics and reports which are maintained

on a company basis.

The possible reduction of one rate technician in the Rate Department was based on the number of companies and the complexity of their rate schedules.

Q. Mr. Simes, will you explain the other figures with respect to the Servicing Division as shown in the table on pages 1517 and 1518? A. As you will see, the figures on those pages show the total projected reduction due to reduced payroll costs, including the downward adjustment to reflect 1958 salary levels and the adjustment for payroll taxes, fringe benefits and employee expenses. As shown, the total amount due to personnel reduction is \$102,200. In addition to these payroll savings, we also took into consideration possible reductions in miscellaneous costs such as student training and the System house organs. Our projection of the maximum reduction in costs that could be effected with respect to the Servicing Division is \$116,200.

[1397] Q. How confident are you that these reductions could actually be made in the Servicing Division? A. Not very. By and large the services performed in this Division are specialized and you simply cannot assume confidently that you can make a pro rata reduction of personnel because you are reducing approximately 13 per cent of the services which are performed by this Division. If severance actually took place, it would not surprise me to find that it would be impossible to make some of the reductions we have projected without impairing the ability of departments in this Division to perform their necessary services for the remaining electric companies.

Q. Would you now give your conclusions on the effect of severance on the Construction Division of the New England Power Service Company? A. Here again my conclusions are based on the amount and type of construction work performed by the Service Company for the gas companies in the year 1958. At that time, the Construction Division

had on its payroll a gas holder mechanic and helper who worked almost exclusively for the gas companies and were actually scheduled by the gas engineer of the gas division. In my opinion, these men could be dropped from the Construction Division payroll in the event of severance.

The determination of other reduction in the Construction Division was more difficult. In 1958, there were [1398] approximately 34 men as outlined in the report engaged in construction and maintenance activities of both a gas and electric nature. Since all of these men, working foremen, welders, utility workers, are skilled mechanics, any organization would be loathe to part with them. However, in our efforts to project the effect of severance on the Construction Division, we concluded that there could be a forced reduction of a welder and 3 utility workers. Certainly, no consideration would be given to reduction of working foremen with the years of experience in utility construction which such jobs require.

Since no materials except for expendable hand tools are charged to operating companies by the Service Company and no material amount of equipment relates specifically to gas operations, we have given consideration only to payroll reductions in the Construction Division. The result of our analysis indicates a payroll saving to the Construction Division due to forced reduction of \$51,100.

Q. Would you explain your conclusions regarding the services provided by the Engineering Division? A. Our analysis of the billings of the Engineering Division and study of how that Division operates indicated that there would be virtually no slack in the work of that Division if the gas companies were removed from the System. As far as blanket requests were concerned they related primarily to system-wide engineering studies. The blanket requests that [1399] related only to the gas companies were not of a significant amount. As far as specific requests are con-

cerned, almost all of these related to right-of-way surveys performed by personnel who are used almost exclusively on electric operating company matters. Even making the most conservative assumption as to the effect of severance we could not see any basis for projecting a forced reduction in this Division.

Q. Would you summarize your estimate of these possible reductions and their significance in assessing the effect of severance? A. The total billings in 1958 to the gas companies were approximately \$317,200. Subtracting from that our projection of possible forced reductions in the Servicing Division of \$116,200 and \$51,100 in the Construction Division leaves a balance of \$149,900 to be absorbed by the other companies in the NEES System. Of this amount, \$37,500 would remain in the Construction Division and \$11,300 in the Engineering Division. Almost all of these amounts would be charged to Plant accounts. It is our best estimate that after charging the proper amount to Plant accounts, the net effect on Income accounts of the other companies would be approximately \$100,000. On page 1520 of the Service Company report, there is an estimate of how the increased cost would be absorbed by the remaining individual companies.

Q. Would you explain how you spread the increased cost [1400] among the electric operating companies? A. Of course, the manner in which this cost would be absorbed by the electric companies would depend solely upon the amount of work which they request the Service Company to perform. The method we used was based on the gross operating revenues of each individual company in the year 1958.

Q. Mr. Simes, would you now describe in more detail your survey of the gas division of NEES? A. The gas division of NEES was formed shortly after the arrival of natural gas in the area to provide specialized executive, engineering and sales services for the gas companies in

order to develop the full earnings potential of natural gas distribution. In general these services comprised the areas of management, marketing and supply, operations and engineering, and sales promotion.

The executive head of the gas division was the president of all of the Massachusetts gas companies except Lynn. In the year 1957 he had reporting to him four assistants.

One of these assistants performed management services by working with operating company managers on matters of common policy and operations; by representing the individual companies on industry committees concerned with such activities; and by maintaining good public relations. He was the responsible executive in the absence of the President of the gas companies.

[1401] In the area of marketing and supply, another assistant was responsible for forecasts of customers, sales, revenues and earnings; preparation of operating budgets; development of new markets for gas; gas supply from pipelines, matters before the Federal Power Commission in pipeline certificate cases; preparation of general statistics; and representing the companies in retail rate matters before the Massachusetts DPU. In addition he worked with operating company managers on large volume gas sales contracts both firm and interruptible.

Another assistant was responsible for the general area of sales promotion and merchandising. This executive worked with the company managers and the sales managers to establish appliance sales quotas, organized sales campaigns and develop and administer bonus plans for salesmen. He also prepared promotional and advertising budgets and developed programs for market research and advertising in conjunction with an outside agency. He worked with other gas companies in developing and coordinating area-wide programs to promote the use of natural gas.

In the area of operations and engineering, another

assistant was responsible for production, distribution, utilization, engineering and construction; preparation of construction budgets for the individual companies; and local personnel and labor relations in the operating departments. He was also [1402] responsible for the direction and supervision of the Gas Engineer and Coordinating Engineer.

The Gas Engineer was responsible for the design engineering and construction of major additions to production, storage and distribution facilities, telecontrol and telemetering equipment. He was also responsible for determining what maintenance was required and scheduling the maintenance work on storage holders, telecontrol and telemetering.

The Coordinating Engineer was responsible for production and distribution, operating procedures and emergency operating plans; preparation of economic studies, operating and construction budgets; determination of peak shaving requirements and the adequacy of production and distribution facilities; and he made studies of the feasibility of new production processes and equipment. He coordinated these activities with the Gas Engineer and the company Vice Presidents and operating superintendents.

Q. In general, Mr. Simes, would you indicate for us the relative areas of responsibility of the Service Company and the gas division? A. Both the gas division and the Service Company are set up to perform specialized functions. However, a greater degree of efficiency in certain areas, such as sales, operations and engineering in particular, can be obtained through specialization in gas company problems. In these areas that I have mentioned, [1403] it is possible for a gas division which is responsible for 8 local companies to maintain a high load factor in the use of specialized talent. In other areas, it is obvious that maximum economies can be realized on a system-wide basis, because the same general skills and knowledge are required for service

to electric and gas companies. An example of this would be the purchasing department.

In fields such as taxes, auditing, methods and procedures, plant accounting, medical and insurance, corporate services, et cetera, such a high degree of specialization is required that it is virtually impossible for the gas companies alone to set up departments in which a high load factor could be maintained.

Q. In general, do you believe the Gas Division represents an efficient and sound way of performing the centralized functions for the gas companies which you have referred to?

A. Yes, I do. I have reviewed the roles of each of the gas division personnel and have satisfied myself that it makes more sense for them to be performed on a centralized basis for all gas companies, than to have them performed by each company. For example, I made a physical inspection of each one of the operating companies at which time I examined the "take points", standby and peak shaving plants, shops, garages, sales floors and accounting centers. In all cases, the condition of the physical plant was excellent. Every [1404] phase of the physical operating plant spoke well for the engineering which went into the design and construction. Maintenance obviously had been carefully planned and executed. The portion of the plant which is underground, and therefore not available for observation, is also in good condition as evidenced by the relatively low figure of 4.5 per cent for unaccounted for gas for the entire system.

In answer to questions regarding corrosion control, I learned that cathodic protection and wrapping of pipe were used where necessary. The engineering group of the gas division had made soil studies to determine where pipe needed protection and protection was provided only in those areas rather than spending money indiscriminately for protection.

This and other similar studies spoke well for the services rendered by the engineering group of the Gas Division to the individual operating companies, and I found similar excellence in other parts of the Gas Division.

Q. Mr. Simes, in your inspection of the gas properties, did you study the executive and administrative organization of the local companies? A. Yes, I did.

Q. Would you briefly describe the executive and administrative organization of the operating gas companies?

A. Mr. Dalbeck has described in considerable detail the management setup of each of the operating gas companies [1405] and my own studies confirm what he has said.

In general, each gas company had a Vice President and General Manager who was directly responsible for the operation of his particular company. He had to perform or direct and supervise the performance of the functions of production, distribution and utilization; he was responsible for maintaining good public relations and making contacts with municipal authorities; he handled personnel and labor problems of a minor nature; he was responsible for residential, commercial and industrial sales activities; and he was responsible for customer contact and relations.

In the larger companies the Vice President and General Manager was assisted in the performance of these duties by staff assistants whereas in the smaller companies he had to perform most of these duties himself.

Q. Will you indicate to us the process by which Ebasco went about projecting the executive and administrative staff which would be required for each of the 8 gas companies if independent? A. In the event of severance each gas company from the largest to the smallest would require top level executive and administrative personnel. Both the number and caliber of these executives will vary with the size of the company. Rather than repeat the data that is

already included in the Ebasco report, I would like to take one company as [1406] an example.

Since the North Shore Gas Company has been used as a representative example by Mr. Quig, I will use it also to demonstrate our methods of determining executive and administrative staff requirements. Obviously there has to be a President as chief executive officer who would be responsible for every function of the company. In a company the size of North Shore, the problems are too numerous and complex for one man to supervise them directly. He would need a minimum of 3 other company officers to supervise the general areas of operation, financing and accounting, and corporate matters. In the pro forma organization of North Shore, these officers are a Vice President, a Treasurer and an Assistant Treasurer who will also be the Corporation Clerk.

Q. Will you indicate the responsibility of the Vice President? A. The Vice President would be directly responsible for production, distribution and utilization functions; preparation of operating and construction budgets; maintenance of all physical property; preparation and presentation of data before State and Federal regulatory bodies and employee and labor relations including contract negotiation.

In addition, this executive in a company of this size would have general responsibility for sales and merchandising operations although the general sales policies would [1407] undoubtedly be a direct responsibility of the President. In the absence of the President the Vice President would perform the duties of the chief executive officer.

With the wide scope of responsibility for this executive, it would be necessary to provide him with an administrative assistant. In these days of increasing emphasis on employee relations, the administrative assistant is necessary to relieve the top executives of the day to day labor and

personnel problems which require countless meetings with labor representatives.

In addition the administrative assistant would have to provide liaison between the various departments reporting to the Vice President, help correlate the data required for preparation of budgets, make special studies of particular problems that arise in day to day operations, assist in preparing operating procedures for the various departments under the supervision of the Vice President.

Q. Who would be responsible for treasury functions in this new company? A. The office of the Treasurer would be responsible for all financial and accounting functions; in the former category are included determination of financing requirements; arrangement for debt and security issues; preparation of necessary regulatory and investor data in connection with financing. In the area of accounting the Treasurer would be directly [1408] responsible for general accounting, plant accounting, and customer accounting; preparation of Federal, State and local tax information; preparation of required reports to regulatory bodies; development of proper accounting practices and procedures; preparation of cash forecasts; and control of both operating and construction budgets.

The Treasurer would be assisted by an individual with the title of Corporation Clerk and Assistant Treasurer. In the absence of the Treasurer he would be the responsible financial officer. His direct line duties would include supervision of general accounting, customer accounting and stores accounting functions; and his staff duties would include determination of insurance coverages and handling of day to day insurance and claim matters; handling of stockholder matters and preparation of the annual report; recording of minutes of the meetings of the directors and stockholders; and performing other duties of a corporate nature at the direction of the President or the Treasurer.

Q. What other administrative staff would be necessary for this company? A. In addition to the general officers of the company, the administrative staff in a company the size of North Shore would include a Sales Manager, an Engineer, and a General Superintendent.

The Sales Manager would be responsible for the [1409] executive of general sales policies as determined by the President or Vice President of the company. He would be directly responsible for sales promotion; advertising and merchandising. In these areas, his duties would consist of development of sales campaigns, supervision of the sales force; development of sales quotas and commissions and bonuses of the salesmen; determination of quantity and type of merchandise to stock and display; direction of home service activities; development and coordination of appliance dealer activities; preparation of advertising material; promotion and development of commercial and industrial sales of gas; and the promotion of new uses of gas and gas equipment.

The Engineer would report directly to the Vice President and would be responsible for all technical requirements of the company. He would be responsible for forecasting load growth and planning to meet that growth; the design and construction of facilities as required for expansion of the gas system; preparation and preservation of maps and records; acquisition of required rights-of-way; study of new types of gas equipment for production, distribution and utilization; determination of control and safety requirements; determination of type and size of communication equipment required and preparation of data for licensing thereof; preparation of standards of operative procedures both for a normal and emergency operation.

[1410] The General Superintendent would report directly to the Vice President and would be responsible for the production, distribution and utilization activities of the com-

pany. In the case of a company the size of North Shore, he would have a production or supply superintendent and a distribution and utilization superintendent reporting directly to him. He would be directly responsible for the operation and maintenance of production plants, transmission and distribution lines, metering and regulating stations; testing and repairs of customers' meters; supervision of automotive equipment and the maintenance thereof; maintenance of odorization levels; services of customers' equipment; supervision and inspection of field construction.

Included in the executive and administrative staff are the necessary technical, secretarial and clerical help required by the various executive and department heads.

Q. You have described in some detail for us the particular executive and administrative functions which would have to be performed in these new companies and have indicated to us how these functions would be performed in the case of North Shore. Will you describe generally the basis for these determinations? A. First, we had to determine what the functions to be performed by an executive and administrative staff were. This was largely based on a thorough knowledge of the business [1411] and operations of each of the companies and our own knowledge and experience as to what jobs had to be performed to carry on such operations. Of course, one of the helpful guides in making this determination was the present method of operations of these companies. We also considered the organizations of other similar gas companies which, like the present organization of this company, served as a check or test of our conclusions as to what might be necessary in different areas—subject in each case to molding the organization to the particular situations of North Shore as if it were operating on an independent basis.

The next step was to determine what personnel were necessary to perform these functions. Here again the

process was roughly the same. We drew heavily on our own experience, testing our conclusions against the present set-up of these companies and other similar companies.

Q. Is the process which you have described the one you used in arriving at your projections for each of the 8 gas companies? A. Yes, it is. Of course the requirements would vary according to the size and business of the company.

Q. Would you explain how the salaries of the pro forma executive and administrative staff were derived? A. In general, after the determination of the size and type of staff required for each individual company, [1412] we considered 3 factors that normally determine salaries at this level. First, the duties and responsibilities of each officer and department head in relation to the size of the company being staffed determined the caliber of man required; second, consideration of the market from which this type of personnel must be obtained; third, the comparative salary levels in the New England area.

The determination of the first 2 factors was made on the basis of our knowledge and experience in the gas industry. The third factor, which is primarily a test of our conclusions on salary levels—was obtained from annual reports, of other Massachusetts gas companies to the Department of Public Utilities.

Q. Mr. Simes, in what you have said about management and administrative areas you have not specifically described the effect on the gas companies if they were to lose the services of the Service Company. Would you please give us your views on this?

Mr. Nowlin: Mr. Examiner, I think I have a standing objection to this line of testimony, haven't I?

Hearing Examiner Ewell: I think so.

Mr. Vorenberg: That is what I understood.

Hearing Examiner Ewell: That is the understanding.

By Mr. Vorenberg:

Q. Will you proceed with the answer? [1413] A. I would like to answer that question by reviewing the services provided by the Service Company for the gas companies in 1958 which I have analyzed.

First, in the area of purchasing and stores, the gas companies would definitely lose the savings attributable to bulk purchases, on which we have not placed a dollar value in the Ebasco report.

In 1958, the Purchasing Department of New England Power Service Company purchased approximately \$30,000,000 worth of materials and supplies exclusive of fuel which is purchased primarily for the electric companies. This is an enormous advantage when dealing with vendors not only in price but in obtaining scarce material, expediting delivery, and having many sources of supply available.

When purchasing is a part-time activity of a President or Vice President those companies would lose the advantage of being aware of many new products on the market and of being able to obtain quick and accurate price verification when making engineering estimates.

Q. What effect would the non-availability of the Audits and Methods Department have? A. Mystic Valley could afford an internal audit staff but the others could not. Of course all companies would require the services of an outside auditor. However, an outside auditor does not and cannot provide all the services of an [1414] internal auditor. A well-trained internal auditor provides a good check on first line supervision, he surveys the general housekeeping of field locations and he is generally in a position to test the efficacy of operating as well as accounting procedures.

In my opinion, none of the severed gas companies could afford to establish a separate systems and methods group on the———. This will be an inestimable loss from the standpoint of developing efficient procedures, forms stand-

ardization, and in the area of machine accounting. Again, there are many consulting firms willing and able to supply services in regard to machine accounting equipment and uses; but in my experience, the smaller companies usually have to rely on the advice of the manufacturers which is not always adequate.

In the area of services provided by the Insurance Department of the Service Company, I believe the effect of the loss of these services on the gas companies will be covered in detail by another witness.

Q. What would the effect be of the loss of services of the Medical Department? A. The services arranged for or provided by the Medical Department would be impossible to replace by any of the gas companies. In particular, I mean the services of Dr. Roberts, the medical director of the Service Company Medical Department who has approximately 25 years of experience in the [1415] industrial medicine field. I do not doubt that the individual companies could obtain the services of various clinics and hospitals for check-ups of their employees but that is only part of the services rendered by this department. The systematic analysis of check-ups and the coordinated administration of the medical program generally is of prime importance.

Q. What about the loss of the Service of the Corporate Department? A. Of the services performed by the Corporate Department of the Service Company, undoubtedly some of them can be obtained by hiring outside legal help which has been reflected in the pro forma estimates. However, corporate law in regard to a utility corporation is a rather specialized field. The greatest loss to the severed companies will be in losing the services of attorneys with intimate knowledge of the gas companies and their operations with respect to State and Federal laws and rules

and regulations of various regulatory bodies which apply to the functioning of these utility companies.

Q. Will you now tell us about the effect of losing the Service Company's services in the personnel area? A. In my opinion one of the most severe losses to the gas companies would be in the area of personnel and employee relations. I think it is unnecessary to belabor the increasing importance of this area in the management of any business. [1416] Today unions have well-trained and expert help in their negotiations with management and it behooves management to have this caliber of help also.

The Service Company has men of such caliber with years of experience in negotiating contracts with unions.

Mystic Valley could afford a personnel staff. The other companies would have to depend on the Executive and Administrative staff to perform these functions and it would be several years before the individual gas companies would have men with the abilities and experience required for labor negotiations. They would also lose the value of sound judgment in development of employee relations programs which in my opinion have been very successful in developing a high level of employee morale throughout the NEES system. This observation of the level of employee morale has been gained from conversations with employees in all parts of the System and all levels of job classifications.

Q. What effect would severance have on safety matters? A. Most utility companies now have a safety director and in my experience even the smallest of gas companies manage to put someone in charge of safety programs. Unfortunately, however safety is usually put in the hands of an individual as a secondary duty to his line functions.

It is my firm belief that there are direct and tangible benefits from well-organized and well-executed safety [1417] programs. In this area the companies of the NEES System have done an outstanding job and I can only at-

tribute it to the dynamic and aggressive safety programs fostered, developed and policed by the Safety Department of the Service Company.

In support of this I would like to offer one statistic. In the year 1958, the average frequency of accidents per million man hours for the gas companies of the NEES System was 2.09 as against a national average for the gas industry of 8.07. 1958 does not happen to be an exceptional year. In every year but one in the last 6 years, the NEES System gas companies frequency average was less than that of the gas industry nationwide. This safety record has a dollar value because it has reduced the cost of casualty insurance over the years.

Q. How have you assumed tax and rate matters would be handled for the severed gas companies? A. The preparation of tax returns would be under the supervision of the Treasurers of the independent companies and the individual companies could hire tax experts to help prepare their returns. However, they would lose the assistance and advice of the Tax Department of NEPSCO which has years of experience in their particular problems and the availability of this advice on a day to day basis which is no further away than a telephone.

In the area of Rates not one of these gas companies [1418] is large enough to afford a Rate Engineer or Rate Technician and consequently rate matters would become secondary duties of management personnel. Of course, the services of such qualified people are available from many consulting firms which, of necessity, would have to be the source of such talent when rate problems arise for the gas companies. There is, again, however, the loss of the services of experienced and knowledgeable men of NEPSCO in the particular area of dealings with a local regulatory body.

In addition, there would be hesitation on the part of management of smaller gas companies to call in a consultant on small Rate problems which service is readily available from the Service Company.

Q. What about the services of the Publications Department? A. Some of the larger companies might be able to issue a house organ possibly on a bimonthly basis rather than the present monthly "Contact".

The main loss in this area, though, would be the talent and experience required to handle public relations and releases through the daily periodicals.

The loss of NEPSCO services in this area would be serious and extremely difficult to evaluate on a dollar basis but in my experience, good public relations are an absolute necessity for all utility companies.

[1419] Q. How would construction be handled for the severed gas companies? A. I believe that the gas companies should be able to obtain competent construction help from existing contractors in their areas except for certain specialists now on the payroll of the Construction Division of NEPSCO.

The gas companies would have to use available construction help from these contractors to perform the work of these specialists and depend upon close supervision of the work which, of course, puts an additional burden on their operating supervisors.

Q. What about sales and engineering activities? A. In regard to services in the sales and engineering fields, they are now provided to a great extent almost 100 percent by gas division. In the event of severance, the individual gas companies would lose the overall planning and coordination of these functions even though we have provided minimum staffs to perform the functions of sales and engineering.

Mr. Vorenberg: Mr. Examiner, we are at the end of

a section of Mr. Simes' testimony. We will be glad to go on a while longer or stop, whatever is the convenience of Mr. Nowlin.

Mr. Nowlin: It looked like you were running out. I thought maybe you were through.

Mr. Vorenberg: We have not run out yet.

With this witness we have another three-quarters of [1420] an hour or so. I assume you would not want to finish with him this evening.

Mr. Nowlin: Are you going to be able to finish tomorrow?

Mr. Vorenberg: I think we can, barring anything unforeseen. I think we could comfortable finish tomorrow if we break now.

Hearing Examiner Ewell: Do you have another witness?

Mr. Vorenberg: After him?

Hearing Examiner Ewell: After this witness.

Mr. Vorenberg: We have, let's see—we have—no.

Mr. Quarles: There are several witnesses.

Mr. Vorenberg: But no new ones. I think there will be no few faces after him. But, as Mr. Quarles indicated earlier, we will call back to the stand certain witnesses.

Hearing Examiner Ewell: Do you think you will take up most of tomorrow?

Mr. Vorenberg: I think we will take up most of tomorrow.

Hearing Examiner Ewell: But you expect to finish tomorrow?

Mr. Vorenberg: I certainly do.

Hearing Examiner Ewell: Because I have to be in New York on Wednesday morning for a hearing.

[1421] Mr. Vorenberg: I think we can finish tomorrow barring anything unexpected.

Hearing Examiner Ewell: Off the record.

(Discussion off the record.)

By Mr. Vorenberg:

Q. Mr. Simes, in your description of the Executive and Administrative staffing of each of these gas companies as set forth in the pro forma organization and in your description of the effect on these companies of the loss of services of the Gas Division and NEPSCO, you have indicated in each case what the effect would be of losing the services and how you have assumed they would be performed on an individual company basis. What is the overall dollar effect of severance of the Gas Companies at the Executive and Administrative level? A. The increased cost chargeable to operating accounts due to severance of the gas companies in the Executive and Administrative group is \$289,000 plus \$79,800 for outside professional services over the 1958 cost of local management, gas division services, Service Company services and outside professional services.

Q. Did you consider the possibility that services which you have assumed would be performed by personnel of the individual gas companies could be more economically performed by an outside organization? [1422] A. Very definitely, yes. As other witnesses have stated previously our assignment in this study was to project the most economical method of operation of these gas companies.

The Executive and Administrative staffs which we have established in the pro forma organizations of these companies are minimums and consistent with the size and earnings potential of each company.

All of the companies have at least four officers—a President, Vice President, Treasurer and Assistant Treasurer who is also the Corporation Clerk. This is a minimum any operating utility of any size should have. Only in Mystic Valley have we added one additional Vice President for Sales and Marketing because of the size of the company

and the scope of its operations. Also in Mystic Valley we have included a Director of Engineering, Director of Personnel, a Purchasing Agent and Auditor which again is consistent with the size of this company. In the medium size companies,—Lynn, North Shore and Lawrence—we have included a Sales Manager which is an obvious requirement for companies of this size.

The personnel which I have just mentioned and the functions which they would perform could not be farmed out to outside organizations or individuals. Functions and services previously performed by the Service Company and Gas Division personnel would have to be absorbed by these executives as time and capability permit or would have to be [1423] given up, except as their companies might obtain such services from outside firms on an occasional basis. No allowance has been made for such occasional services in our pro forma figures.

Of course, auditing and legal services would also be a necessity but they would be more economically obtained from outside professional organizations or individuals. Therefore we have provided for such outside professional services in our pro forma organization.

I, myself, have gone over these projections time and time again as though I had the responsibility of setting up these independent companies. On the basis of these reviews I am satisfied that the judgments are those which I would make if I had this responsibility to carry out.

Q. You have indicated that there are other effects resulting from loss of Service Company and Gas Division services than the direct dollar effect which is shown in the Ebasco Report. Would you please summarize for us what these losses would be? A. We have not included in our estimated dollar loss of economies the effect of the loss of specialized services such as bulk purchasing, the Medical Department, coordinated safety programs, improvement

of methods and procedures. Our goal in this study was to project the most economical method of operation for these gas companies which would provide [1424] service on a level generally comparable with that now provided by the eight gas companies. It is obvious to us that there would be numerous instances where the organizations we have projected would, because of lack of specialization and depth, simply not be as good as the present organization.

I cannot emphasize too strongly that in the highly competitive energy market that exists today in this area it is of utmost importance to operate at maximum efficiency. Maximum efficiency is not accomplished haphazardly—it must be planned—and the plans must be effectively executed. This cannot be done without talent, skill and experience. The Service Company and the Gas Division have these qualifications and this is what the separated companies would lose. In my opinion this loss would be serious.

Q. So the record will be clear, Mr. Simes, I assume that the one ground rule you used in the projections you have just been speaking of was that each gas company would operate on an independent basis. I ask that question because, as I have indicated, I propose to ask you at a later point in this proceeding the extent to which changing this ground rule and putting the eight companies together would lead to further economies. A. Yes, it is true that in exploring and determining the best operating arrangements for these companies as set forth in the testimony I have given and in the Respondent's [1425] offered Exhibit 58, the assumption was that each of these gas companies would be on its own. If they operated as a combination, certain economies otherwise lost in severance could be saved.

Mr. Vorenberg: Since we will come to that at a later stage in this proceeding, I will not ask you to elaborate on that now.

Hearing Examiner Ewell: Off the record.

(Discussion off the record.)

Hearing Examiner Ewell: On the record.

It is now quarter after five and there is one little matter that I would like to inquire about before we adjourn tonight and that is the question of how much time the staff is going to request by way of adjournment to prepare for cross-examination.

Do you have any thoughts on that subject at this time?

Mr. Nowlin: No, sir.

My present thought would be that we would ask the hearing be adjourned subject to your call. Otherwise when we try to fix a definite date and it turns out we cannot meet it or somebody may be sick on that date or could not attend, and I think it would be more definite for—

Hearing Examiner Ewell: The reason I asked that question, as you are undoubtedly aware there is a policy in [1426] the Commission that any adjournment in excess of 30 days should be submitted to the Commission for their approval. So I thought if you were going to request a specific time in excess of that, I would like to be prepared for it so that I can take some action in regard to that tomorrow before the direct case on behalf of the respondent here has been concluded.

Mr. Nowlin: I certainly do not think the staff would be in a position to go forward in less than 30 days. I say in order to eliminate a similar situation we got into before trying to find a satisfactory date for all the parties that it would be better to continue it subject to call of the Examiner and then let the Examiner schedule a day definite.

Hearing Examiner Ewell: That seems reasonable.

How does that impress you, Mr. Quarles? Do you have any objection.

Mr. Quarles: No objection whatever, sir, subject only to our having reasonable advance notice or being consulted in advance of the fixing of that date so as to make sure it would not conflict with other engagements.

Hearing Examiner Ewell: I can assure you that if that is subject to my call you will have such reasonable notice.

Mr. Quarles: Thank you, sir.

Mr. Nowlin: I hope you understand, Mr. Examiner, the task that confronts the staff. None of this information is available to us prior to the day of the hearing.

[1427] Hearing Examiner Ewell: I am fully aware of it and when I take a look at this exhibit—

Mr. Nowlin: There is a tremendous amount of material here to go through and get prepared on.

Hearing Examiner Ewell: Yes.

Mr. Nowlin: We still do not know what is going in yet.

Hearing Examiner Ewell: Yes. I think Exhibit 58 alone is a persuasive argument in your favor.

Mr. Gishman: A weighty argument.

Mr. Quarles: We naturally want the case to move along in reasonably orderly fashion and reasonably promptly but we are not pressing. We are not against a dead line. So it will be entirely agreeable to us to leave it for the staff to make their check and get better ideas as to how long they will need and then consult with you and you fix the date for reconvening.

Hearing Examiner Ewell: Fine.

Off the record.

(Discussion off the record.)

Hearing Examiner Ewell: This seems to me like a good time to adjourn.

We will resume at 10 in the morning.

(Whereupon, at 5:20 p.m., the hearing recessed, to reconvene at 10:00 a.m., Tuesday, May 24, 1960.)

[1429]

PROCEEDINGS

Examiner Ewell: Let us resume, gentlemen.

Whereupon

JAMES SIMES

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

Direct Examination (Resumed)

By Mr. Vorenberg:

Q. Mr. Simes, you stated earlier that your assignment also included investigation of the effect of severance on situations where property is jointly occupied. Would you explain this assignment in more detail? A. In the NEES System there are properties which are owned or leased by one operating company which in turn provides space for one or more affiliated NEES companies. Charges are made for the use of such space.

Q. What is the basis of these charges? A. In the case of property that is owned by one of the companies the rental amount is based on the following factors: labor such as janitors, watchmen, maintenance; payroll, taxes and insurance; janitorial supplies and expenses; water and sewer costs; depreciation; insurance; municipal taxes; heat and light and return on investment at six per cent.

These costs are then allocated to the renting [1430] company on the basis of square feet of space occupied.

In the case of leased property a part of which the leasing company then sublets to another company a share of the rent is charged based on use of the space plus a share of charges for maintenance, heat, light and power.

Q. What areas of the NEES System are involved in this? A. In general there are six areas involved in these inter-company billings. The Malden area where there are properties jointly used by Suburban Electric and Mystic Valley Gas; the North Shore area including Salem, Beverly and

Gloucester where there are properties jointly used by Merrimack-Essex Electric and North Shore Gas Company; the Lynn area with properties jointly used by Lynn Electric and Lynn Gas; Lawrence area where Merrimack-Electric and Lawrence Gas jointly use various properties; the Worcester area where there are properties jointly used by the Worcester County Electric Company and the Wachusett Gas Company in Leominster and Clinton and by Worcester County Electric and Central Massachusetts Gas Company in Spencer, Webster and Southbridge; and finally the Northampton area where Northampton Gas and Northampton Electric jointly use certain properties.

We made an inspection of all properties which are jointly used by electric and gas companies in the areas [1431] that I mentioned.

Q. Mr. Simes, just what did you examine in your inspection of these properties? A. We were looking for several things. The relative amount of floor space used; the purposes for which it was used; the adaptability of the premises for division and use by non-affiliated companies, and in general the physical condition and characteristics of each building.

In addition we surveyed each of the towns in order to gain a general impression of the level of prosperity of the town, to see what types of buildings existed in the towns and the general availability of rental space.

We also considered all of the space in the area which was used by NEES companies to enable us to consider various alternatives in the event of severance.

Furthermore, we discussed prevailing rates for rental properties with members of the Chambers of Commerce in each of the areas in regard to three types of property; store space, office space and storeroom space.

Q. Why did you choose to discuss rental rates with the Chambers of Commerce rather than with local realtors?

A. In our experience with realtors, rates tend to be higher when a realtor learns that a utility company is interested in land or office space. We know that the Chambers of Commerce usually maintain average rental figures [1432] for the areas they serve and they make them available to anyone making inquiries.

Q. What were the results of your discussions with the local Chambers of Commerce? A. From each local Chamber in the six areas under consideration we received rental rates for three types of space—store, office building and storeroom space—in terms of dollars per square foot per year.

In order to obtain a weighted average, the rates in each category of space were multiplied by the required amount of space in the respective categories in each area. In this manner an over-all weighted average of \$2.02 per square foot per year for all types of space was derived. The figure used in our report for this type of space is \$2 per square foot.

Q. Was your discussion with Chambers of Commerce the sole test of the reasonableness of the \$2 figure? A. No. We considered present rents paid by NEES companies and discussed the matter with NEES personnel familiar with the rental situations.

Q. I note that the Ebasco Report also uses a figure for the estimated cost of maintenance, light, heating, water, etcetera. A. Yes, we used a figure of 75 cents per square foot to cover these items.

[1433] Q. How was this figure of 75 cents per square foot derived? A. Primarily this figure was based on the judgment of Ebasco and NEES experts in the field of space planning. However, we decided to test the figure in the Malden area which was one of the principal locations involved in inter-company billings. The basis of the test was a study of building expenses other than rent and janitorial

service which were paid by the electric and gas companies jointly using five buildings in the Malden area—in Everett, Medford, Melrose, Revere, and Winthrop.

These charges other than rent included heating, electricity, minor maintenance, window cleaning and floor waxing, janitorial supplies, water, and miscellaneous items such as snow shoveling and grass cutting. The annual cost for these items divided by the total floor space occupied resulted in a unit cost of 77 cents per square foot per year. As a result of this investigation we were convinced that the 75 cents was a satisfactory figure to cover these items of expense.

Q. Why did you take a flat \$2.75 figure instead of making your projection on a location by location basis? A. Space costs depend so much on the particular facts at the time space is obtained that it would have been quite arbitrary to make such individual projections. In [1434] our judgment a figure which we are satisfied is fair and conservative on System average basis presents a more realistic projection.

Q. Once a satisfactory rental rate had been established, what was the next step? A. In each of the areas where property was used jointly by electric and gas companies, decisions had to be made as to what the vacating company would do and what the remaining company would do.

In the case of the vacating companies, it was assumed that they would move into other properties which they owned if these properties were suitably located and could be suitably adapted to the needs of the company.

If there were no owned properties that met these specifications, it was assumed that the vacating companies would have to rent suitably space in desirable locations. Where such space had to be rented we used our average rental figure of \$2.75 per square foot per year.

For the purposes of this study we assumed that there

would be no capital expenditures for the construction of new office building, storeroom, and store space.

Q. What about the companies which owned or had a lease on the space and would not have to move? A. In those cases we examined the possibility of subletting the vacated space, the possibility of bringing [1435] in other operations of the same company to utilize the vacated space and, third, the economics of relinquishing that space and renting smaller quarters.

Q. Mr. Simes, for purposes of clarification of what you have just described could you give a specific example of how such decisions were arrived at? A. Yes. Take the case of the office building in Salem which is jointly occupied by the Merrimack-Essex Electric Company and the North Shore Gas Company. This building was leased by Merrimack-Essex who in turn sublet space to the North Shore Gas Company for store and general office use and store space to a non-affiliated tenant.

North Shore paid to Merrimack-Essex its share of the rent and building services on the basis of the area occupied by North Shore. In the event of severance, it was assumed that North Shore would move since Merrimack-Essex held the lease on the building.

We had to determine how much space North Shore would require and where the activities could be most suitably housed.

We explored two possibilities: first, renting office space in Salem, and, second, moving the North Shore general office activities to the building which North Shore owns in the neighboring town of Beverly.

North Shore rented office space on the second floor [1436] of its Beverly building to outside tenants. The space requirements of North Shore at Beverly would necessitate asking those tenants to move with the consequent loss of rent revenue.

The economics of the situation dictated that we assume that the North Shore would pursue the latter course and move its general office activities into its Beverly building and rent a small store in Salem to continue its merchandising and collection activities in that town.

Now, in the case of Merrimack-Essex, the question became, should Merrimack-Essex stay at its present location and attempt to rent the space vacated by North Shore or should it rent smaller quarters in Salem.

An examination of the area and the location of the building now occupied by Merrimack-Essex led us to the conclusion that the first floor space vacated by North Shore could probably be rented but that the second floor office space would be very difficult if not impossible to rent.

The income estimated to be received from possible rental of first floor space was not sufficient to offset the economics of moving to smaller quarters elsewhere in Salem. Therefore, it was assumed that Merrimack-Essex would move to smaller quarters. These decisions were the basis for the changes in the intercompany billings for [1437] jointly used properties shown in the pro forma statements in the Ebasco Report.

Q. Was the effect of severance on intercompany billings in each of the other areas as complicated as the example you just gave? A. No, but our process of analysis was the same. In the case of Northampton, for example, there is a building in good structural condition owned by the Northampton Gas Company but oddly constructed on the side of a hill. The first floor is at street level on the top of the hill but the second and third floors are below street level. We gave consideration to the possibility of renting the vacated space on the first floor.

Because of entrance problems, it was decided that only a portion of vacated space on the first floor was rentable and because of the location we assumed that it could be

rented. As a consequence we reduced the projected loss of economy due to the electric company's moving by the estimated amount of annual rental received from an outside tenant.

An example in the opposite direction would be the office building in Southbridge which is a sixty year old, four-story wood building which had been previously a private residence and is now owned by the Worcester County Electric Company. In the event of severance, it would be impossible for Worcester County Electric Company to rent the space vacated by Central Massachusetts [1438] Gas Company not only because of the type of building but because it is not in the business center of town. As a result, we decided that there would be no rental income to offset the loss brought about by severance of the gas company.

Q. Mr. Simes, did you have any general areas of responsibility in the Ebasco report other than the specific assignments which you have discussed? A. Yes, I did.

Q. Would you tell us what these areas were? A. Certainly. You will notice in the Ebasco Report that there are discussions of the effect of severance on Production, Distribution, Utilization and Garage activities of the gas companies and Distribution functions of the electric companies under Part B, Section II of each individual company; on Transportation costs of each individual company under Part G, Section II and on Miscellaneous items of cost under Part H, Section II of the electric companies and Part I, Section II of the gas companies.

In addition there is a Part H of Section II of each gas company which discusses increased professional services which the individual gas companies must engage in the event of severance.

Q. Would you describe in general the nature of the [1439] items that were considered in the Production, Dis-

tribution and Utilization and Garage activities? A. The items that had to be considered in these categories varied for each company. Since Mystic Valley is the largest of the gas companies and consequently had more items to be resolved in this group, I will use it as an illustrative example.

A company the size of Mystic Valley will require a Utilization Engineer to direct the Service School and train servicemen. In 1958 a Utilization Engineer was on the payroll of the Gas Division and his salary has been apportioned among the seven gas companies in proportion to their participation in the Service School. Mystic Valley is the only company large enough to afford personnel of his type.

In the area of customer service there were certain functions which were performed and certain records which were housed jointly for Suburban Electric and Mystic Valley Gas. A new organization of these functions on a segregated basis had to be established.

In Malden the Suburban Electric Company owned and operated a Garage where it serviced and made minor repairs to Mystic Valley transportation equipment. With segregated operations, provision had to be made to enable Mystic Valley to perform these functions on its own.

[1440] Q. Would you also give a general description of the items that were considered under Transportation?

A. Again using Mystic Valley as an example, there were certain vehicles which were used in combination operations by Suburban Electric and Mystic Valley Gas Company. In the event of severance the joint use of vehicles would be discontinued resulting in both Suburban Electric and Mystic Valley having to augment their transportation fleets.

Q. Would you describe briefly the items that were considered under the category of Professional Services? A. In our consideration of the requirements of the individual gas

companies for outside professional services, it was decided to include only those services which would be an absolute necessity—outside auditors and legal counsel. Our predictions are based on conservative estimates from legal sources as to the minimum amount of legal services that would be required by each gas company in the event of severance and an estimate of the fees for such services. This same procedure was followed in estimating the additional cost to the gas companies for professional accountants' services.

Q. Mr. Simes, would you describe briefly if possible the type of the items that are included under Miscellaneous?

A. These Miscellaneous costs to which I have referred [1441] vary as to nature, number and amount from company to company. Briefly I will enumerate a few of the types of items: telephone switchboard service that was jointly used; charges for the Service School which I mentioned previously; rental of machine accounting equipment which was used jointly; registrar and transfer fees which would be required if the stock of independent gas companies were publicly owned; annual depreciation of new office furniture and equipment which the independent gas companies would have to purchase. In general, I think these portions of each section of the report are self-explanatory.

Q. What is your general conclusion on the question of severance on the independent company basis? A. Speaking as an operating man, I can only say that to deprive the gas companies of the economies and other benefits I have described would be a shocking thing unless some vitally important purpose were served. The dollars are only part of the losses which these companies would suffer. I certainly see no purpose or advantage that would be served by breaking off the gas companies.

Q. I would now like to turn with you to the supplemental record which has been marked and offered as Respondent's Exhibit 91. You have heard Mr. Quig's testimony with

respect to the so-called supplemental report? A. Yes, I have.
 [1442] Q. Was Mr. Quig's description of the area of your responsibility for your role in the preparation of this Supplemental Report an accurate one? A. Yes, it was. As I indicated earlier in my testimony, I made a detailed study and analysis of the executive staff and administrative arrangements, both actual and pro forma as shown in the Ebasco Report. The study, analysis and gathering of additional data that was necessary in connection with our work on the Supplemental Report was a logical extension of this.

Q. Will you tell us, generally, the basis upon which you projected the new central organization for these combined companies? A. In this case we considered the size of the companies, the nature of their business and the extent to which it would be economically and administratively sound to operate on a centralized basis.

In making this projection it was, as Mr. Quig has indicated, very helpful to have as a point of reference the present Gas Division. However, as an analysis of the Supplemental Report reveals, there are a number of fundamental variations from the organization of that division which would be made if these eight gas companies were operating on a combined basis but without the benefit of the rest of the NEES organization.

[1443] Q. What additions or changes did you make from the present Gas Division organization in designing to provide a central organization for independent operation? A. Pages 3, 5, and 6 of the Supplemental Report describe the proposed central organization for a consolidated gas system. On page 4 is a pro forma organization chart for such a central organization showing the President and his immediate subordinates — an Executive Vice President, General Counsel and Treasurer.

The chart also shows the executive and staff groups reporting to the Executive Vice President and his Treasurer.

The organization below the level of the executive vice president performs all the present Gas Division functions and has some added personnel and functions. The Vice President (Marketing and Supply), Vice President (Management), and Vice President (Operations and Engineering) correspond generally to present executives in the Gas Division although in addition to their present duties each of them will have to assume duties now performed elsewhere.

The Sales Manager takes the place of the present Sales Promotion Manager. The Public and Personnel Relations, Purchasing and Safety Departments are additions required for efficient central operation.

Q. Why do you have both a President and an Executive [1444] Vice President? A. At the present time, the President of the gas companies can devote most of his time to the operation of these companies without being too concerned with financing, treasury, accounting, public relations above the local company level, labor relations, legal, insurance and similar matters.

Upon separation from NEES the President would have to devote much of his time to matters now handled by NEES executives, and, accordingly, would certainly require an able and experienced second in command to assume not only many of his present duties but many added ones.

Q. Why have you included a Sales Manager instead of a Sales Promotion Manager? A. Sales are one of the most important areas to concentrate on if these companies are to survive and continue to grow. The President of the gas companies now devotes a great deal of his time to the companies' sales program.

Here again, upon separation, it would be essential to pass over some of the President's functions to an individual who would completely assume not only the domestic

promotional program for the development of sales but the full responsibility for the supervision and operation of all sales activities including not only domestic but [1445] builder, dealer, commercial and industrial sales.

Q. Why have you placed the Sales Manager under the Vice President for Marketing and Supply? A. Because in an organization of this size responsibility for all gas sales should be located in one branch of the organization. In the present Gas Division organization, the Vice President for Marketing and Supply has responsibility for industrial and commercial sales while the Sales Promotion Manager acting directly under the President is concerned with advertising and merchandising directed primarily at the domestic market.

Since under independent operation, a good deal of the President's activities with respect to promotion of domestic sales would have to be passed to his subordinates, it seemed logical to center the whole responsibility in the Vice President for Marketing and Supply and have a Sales Manager who would assist him not only with respect to promotion and domestic sales but also with respect to industrial and commercial sales.

Q. Why have you included a Safety Director in this pro forma central organization? A. These gas companies have a very fine safety record and I am positive that one reason for this record and the improvement in safety performance over the years has been the safety program conducted by the service company for the [1446] whole NEES System.

While it is possible to eliminate the Safety Department in the pro forma organization, I know it would result in loss of economies in the long run. An organization the size of the eight gas companies operating together could not afford a program as extensive as the present NEES System program, but in my judgment a full-time Safety Director would be justified. The Safety Director would

initiate specific safety campaigns, make inspection of System properties and practices, and coordinate the activities of local safety committees, and local management.

Q. Please describe the function of the public and personnel relations group in the pro forma central organization. A. This group would have general responsibility for all phases of personnel relations. This responsibility encompasses keeping of personnel records, directing of employee training, conduct of union negotiations and supervision of grievance procedures and the whole area of employee assistance. Obviously the gas companies would not be able to provide the type of medical assistance now provided by NEPSCO but the administration of a limited program would be the responsibility of this group.

Furthermore, while the gas companies could not afford an employee magazine such as the NEES System's [1447] "Contact", even a reduced house organ would be desirable and this group would be responsible for its preparation.

On the public relations side, this group would have the general responsibility for preparing new releases and maintaining good relations with various elements of the public.

Q. What will the purchasing group do? A. The purchasing group will be responsible for purchasing all material and supplies for the eight gas companies and the central organization. There is no question that centralized purchasing results in obvious economies which was the reason for establishing a Purchasing Department in the Central Organization. On the basis of my experience, our estimate of the five employees in this pro forma organization is conservative.

Q. And now moving out from under the Executive Vice President, please explain why you have included a General Counsel. A. The question of outside counsel versus inside counsel is always a difficult one. In the pro forma organizations for independent operation of the eight companies,

we felt that none of the companies was big enough to justify a full-time General Counsel and the eight companies would have had to rely entirely on outside law firms for legal services. In a system of this size, while the volume of work [1448] would not be enough to justify a full-scale Legal Department, with experts on the many specialized phases of public utility law, we think a single General Counsel would be justified.

An inside counsel has the advantage that he develops a thorough familiarity with the System's problems and he facilitates coordination with outside counsel when they are required. We estimate that a General Counsel would take care of all the day-to-day legal problems of the whole System and would handle about half of the out-of-the-ordinary work which comes along.

Q. Turn now to the Treasurer and the organization under him. Did you build this organization around any existing group? A. No. Gas company treasury activities are now directed by the NEES System Treasurer. Upon separation, if the gas companies are to be operated on a combined basis, a whole new treasury organization would have to be built.

Q. Please explain briefly the functions represented by each of the blocks under the Treasurer. A. The systems and controls group is the Comptroller and his staff of three accountants and a secretary. This group would be responsible for internal auditing and for development and improvement of systems and methods. It is a small group which would carry on a very important and [1449] potentially very productive activity.

The Assistant Treasurer would have direct line responsibility for and supervision of the accounting groups in the eight local companies. The Treasurer and Assistant Treasurer would be the Treasurer and Assistant Treasurer respectively of the eight companies.

The Treasury staff would handle all matters which can most efficiently be handled at headquarters such as federal and state tax matters, regulatory commission reports, insurance matters, rate studies, indenture requirements, statistical and accounting analyses, consolidated reports, management reports, information to security holders, security issues and borrowings. They would conduct special studies in connection with FPC filings, rate hearings and other such matters.

Q. Are all of the functions which are now performed by NEPSCO for the gas companies transferred to this pro forma central organization? A. By no means. The severed gas companies could not afford to provide all of the services which NEPSCO makes available to affiliates of the NEES system. There is always a question for any company of just what functions it should perform for itself, what services it should hire from outside and what functions, services or activities it must simply do without. [1450] The answer to this question depends on many factors, but it is largely dependent upon the size of the company and its financial status. An organization the size of NEES System can economically support specialists to provide services which a smaller system would either have to do without or hire from outside. An organization such as a combination of the eight gas companies would come somewhere in between a small independent company and the NEES System in this respect.

Furthermore, as between a system of the size of NEES and one the size of this gas system, there must be some combination of functions in the smaller system which could be handled by separate specialists in a system the size of NEES.

For example, the Gas Division presently calls upon NEPSCO for the assistance of experts in its rate department to evaluate the rate structures of the several com-

panies. In our pro forma organization we have assumed that this function would have to be absorbed by the Vice President for Marketing and Supply although we have not provided him with any staff of specialists to assist him in this work. This, of course, would leave him somewhat less free to concentrate on other matters for which he would continue to be responsible.

Q. Mr. Simes, please describe the organization of [1451] the local Executive and Administrative Staff to operate the eight gas companies under combined operation. A. In general, we determined that the local organizations as they existed at January 1, 1959 with minor modifications would form a sound basis for the local organizations in the Supplemental Report.

This decision was based on the fact that the duties and responsibilities of the personnel below the level of the central organization would remain substantially the same as those which existed under the NEES management as of January 1, 1959. The activities of production, distribution, utilization, sales and accounting would be performed and supervised much the same as they were then.

Q. What are the modifications you refer to? A. The best way to explain these modifications would be to take each position as it appears in the executive and administrative group and explain the variations.

There were positions of vice-president and manager in each of the local companies except Lynn which was a combination gas and electric company at that time. Since the duties and salaries were dependent to some extent on the individuals in those positions we ignored existing personnel and salaries at that level and reappraised the requirements for top management in each local area.

We then set up a vice president and manager in each [1452] area and established salaries commensurate with the responsibilities of each.

Q. Have you made any modification in the position of General Superintendent? A. In the pro forma—local organization we have included the position of General Superintendent in the executive and administrative personnel of all gas companies. This position existed in all of the gas companies on January 1, 1959 with the exception of Mystic Valley and North Shore Gas Company.

At that time Mystic Valley and North Shore had positions with the title of Assistant Manager whose duties were somewhat different from those which we visualized for General Superintendent. We changed the title to General Superintendent because as we see it his responsibilities under this pro forma organization should be exclusively in the operating areas and his duties would be the supervision of the Superintendents of the Production, Distribution, and Utilization Departments.

Q. You have shown the positions of Chief Accountant, Assistant Chief Accountant and Chief Clerk in the pro forma executive and administrative personnel of the local organizations. Are these positions different from what existed on January 1, 1959? A. Yes. Since the NEES District Treasury organizations [1453] could not be duplicated, we established six local accounting supervisory positions to which we gave the title of Chief Accountant.

In our pro forma organization North Shore Gas Company and Lawrence Gas Company would share a Chief Accountant and Wachusett Gas Company and Central Massachusetts Gas Company would share a Chief Accountant. This was done because certain accounting activities of North Shore and Lawrence would be centralized. The same is true of Wachusett and Central Massachusetts.

In Mystic Valley Gas Company we established the position of Assistant Chief Accountant to assist the Chief Accountant because of the size of the Company.

Because of the combined responsibilities of the Chief

Accountant of North Shore and Lawrence, we established the position of Assistant Chief Accountant for these two companies. In the case of the combined responsibilities of the Chief Accountant for Wachuset and Central Massachusetts, we provided a Chief Clerk to assist him. We used the title of Assistant Chief Accountant in one case and Chief Clerk in the other because of the relative difference in size of the two groupings and consequent greater responsibilities.

Q. Are there any other variations in the executive and administrative group among the eight gas companies?

A. Yes. In the North Shore Gas Company we have continued the position of Local Manager in Gloucester. We believe that the character of the town together with the distance of the Gloucester division from the general office require a local representative with the title of Manager [1454] primarily to handle public relations.

In the local organization executive and administrative group in Lynn we have included an Administrative Assistant who would report to and assist the Vice President and Manager. This position was deemed necessary because of the size of the company and the greater number and variety of management problems.

Of course, we have included the necessary secretarial and clerical staff to assist the executive and administrative personnel.

Q. How were the salaries established that are shown for the executive and administrative personnel of the Central Organization? A. We used the same basic approach which I have described in talking about the Ebasco Report. We considered the duties and responsibilities of each executive in the Central Organization in relation to the size and complexity of the system. Then, whenever possible we compared the salaries which were established with salaries for comparable positions in other Massachusetts companies.

For example, the office of President of a system this size would require a man of extensive experience in all phases of gas company operation. We knew that presidents of comparable companies received salaries around \$50,000. To obtain one of them, the salary would have to be higher. [1455] We decided it would be sound to seek a man who had broad experience at a lower level in a comparable company or presidential experience in a smaller company. In either case, the offer would have to be equal to or higher than those salary levels. With these considerations in mind, we established a salary of \$40,000 for the office of President.

Similar considerations went into the salaries of the Executive Vice President, Treasurer, Assistant Treasurer, General Counsel, Sales Manager, Public and Personnel Relations Director, Purchasing Agent, Safety Director, Comptroller and Treasury Supervisor. Below the level of President it was also necessary to weigh one position against the other to establish comparable levels of compensation within the organization based on the relative importance of the various responsibilities.

Q. In the list of executives you just mentioned, didn't you omit the three Vice Presidents? A. Yes, I did. As I mentioned before, the Central Organization of the eight gas companies would be built around the Gas Division. Since those three positions existed at January 1, 1959 we used the approximate salaries for those positions at that date.

In view of the fact that each of these positions would have added responsibilities when separate from the NEES System, this assumption is definitely conservative. The same method was used in establishing the salaries of the [1456] Engineering group.

Q. How were the salaries established that are shown for the executive and administrative personnel of the local

organizations? A. These salaries are based on considerations of the duties and responsibilities of each executive in each of the eight gas companies, the size of each company and the staffs which each executive had to supervise.

In the case of the position of Vice President and Manager salary considerations were also weighted by the fact that this man would be the chief representative of the entire system in his area.

Finally, in the case of superintendents and staff personnel in the local organizations the duties and responsibilities would be the same. Therefore, we used the salaries that were being paid on January 1, 1959.

Q. Did you pattern the pro forma production, distribution and utilization departments on present organizations or on the pro forma organizations for independent operation? A. There is very little difference between the pro forma operating departments for independent operation and the actual organization. The changes amount to the addition of only a few personnel. Under combined operation the function of the Utilization Engineer in the Mystic Valley [1457] pro forma organization as shown in the Ebasco Report would be handled by the Central Organization. The pro forma local organizations for combined operations are patterned on the pro forma local organizations for independent operation with this exception.

Q. What changes did you make in the local organizations for New Business as compared with the independent pro forma organization? A. None, except in Lynn where we eliminated an Advertising Manager, Home Service Director, a Merchandise Manager and substituted a Sales Manager, Secretary and a Clerk. Generally, the organization requirements for New Business would be the same for combined operations or for independent operation or as they are for operation as part of the NEES System.

Q. I assume there are any number of ways in which functions might be allocated between the local and central organizations in a system of this sort, and also any number of different decisions which might be made as to what functions the system was to perform for itself through its own personnel and what it would hire outsiders to do.

To what extent have you given consideration to such alternatives? A. Wherever relevant we have considered alternative ways of performing the required work at every stage of the [1458] study reflected in the Supplemental Report just as we did in the case of our study of independent operation and have chosen what we believe to be the most economical method of performing each function.

Q. Mr. Simes, in general, what is your opinion as to the effectiveness of the organization projected in the Supplemental Report? A. If you have to take these eight gas companies and project how they might be combined on a sound and economical basis, it seems to me that the organization we have projected is a good, workable one.

However, it is important to bear in mind that the very real advantages to the gas companies of being part of the NEES System, and in particular, receiving the specialized services of the Service Company and the economies and depth of joint activities with electric companies would be lost.

In describing my feelings as an operating man about severing the gas companies from the System as per the principal Ebasco Report, I said I thought it would be a shocking thing.

Again, speaking as an operating man, I feel very much the same way about separating gas from electric notwithstanding the combination which we have been talking about.

[1459] Q. Thank you, Mr. Simes.

Mr. Vorenberg: I have no further questions at this time, Mr. Hearing Officer.

Hearing Examiner Ewell: Do you have any questions of the witness, Mr. Nowlin?

Mr. Nowlin: Not at this time.

Hearing Examiner Ewell: Subject to recall.

Mr. Nowlin, I wonder if this would be a good time to discuss the question of the adjournment to afford time for preparation of cross-examination?

Mr. Nowlin: I have conferred with my associates, Mr. Examiner, and they agreed with the suggestion I made yesterday that we adjourn subject to the call of the Examiner.

Hearing Examiner Ewell: How much notice would you want, Mr. Quarles?

Mr. Quarles: If it could be arranged that we could be notified before a notice went out, it would be helpful, on a matter of two or three weeks.

Hearing Examiner Ewell: I see no reason why that could not be done. Is that right, Mr. Nowlin?

Mr. Nowlin: You mean you want two or three weeks?

Mr. Quarles: Not if we can fix it in advance, no.

Mr. Nowlin: I see no problem there.

Hearing Examiner Ewell: If you agree on a date, any amount of notice sufficient in order to get the mailing [1460] out would be adequate, is that right?

Mr. Quarles: Yes, sir.

Mr. Nowlin: Mr. Examiner, perhaps I should supplement my previous suggestion as to provide that the hearing is adjourned subject to the call of the Examiner or upon further order of the Commission.

Hearing Examiner Ewell: Well, I think that I will inform the Secretary of what was agreed on.

Mr. Nowlin: Off the record a minute.

(Discussion off the record.)

Hearing Examiner Ewell: We will take a short recess at this point.

(Whereupon, a short recess was taken.)

[1461] Mr. Vorenberg: Before we call on the next witness, Mr. Hearing Examiner, you will recall that yesterday Mr. Nowlin requested that there be introduced as an exhibit one of Mr. Johnson's working papers. Since we only had one copy we have had photostats of that made. Respondent's Exhibit 90 was reserved for that purpose.

Hearing Examiner Ewell: Do you have it now?

Mr. Vorenberg: We have it now.

Hearing Examiner Ewell: All right, the record will show it is received.

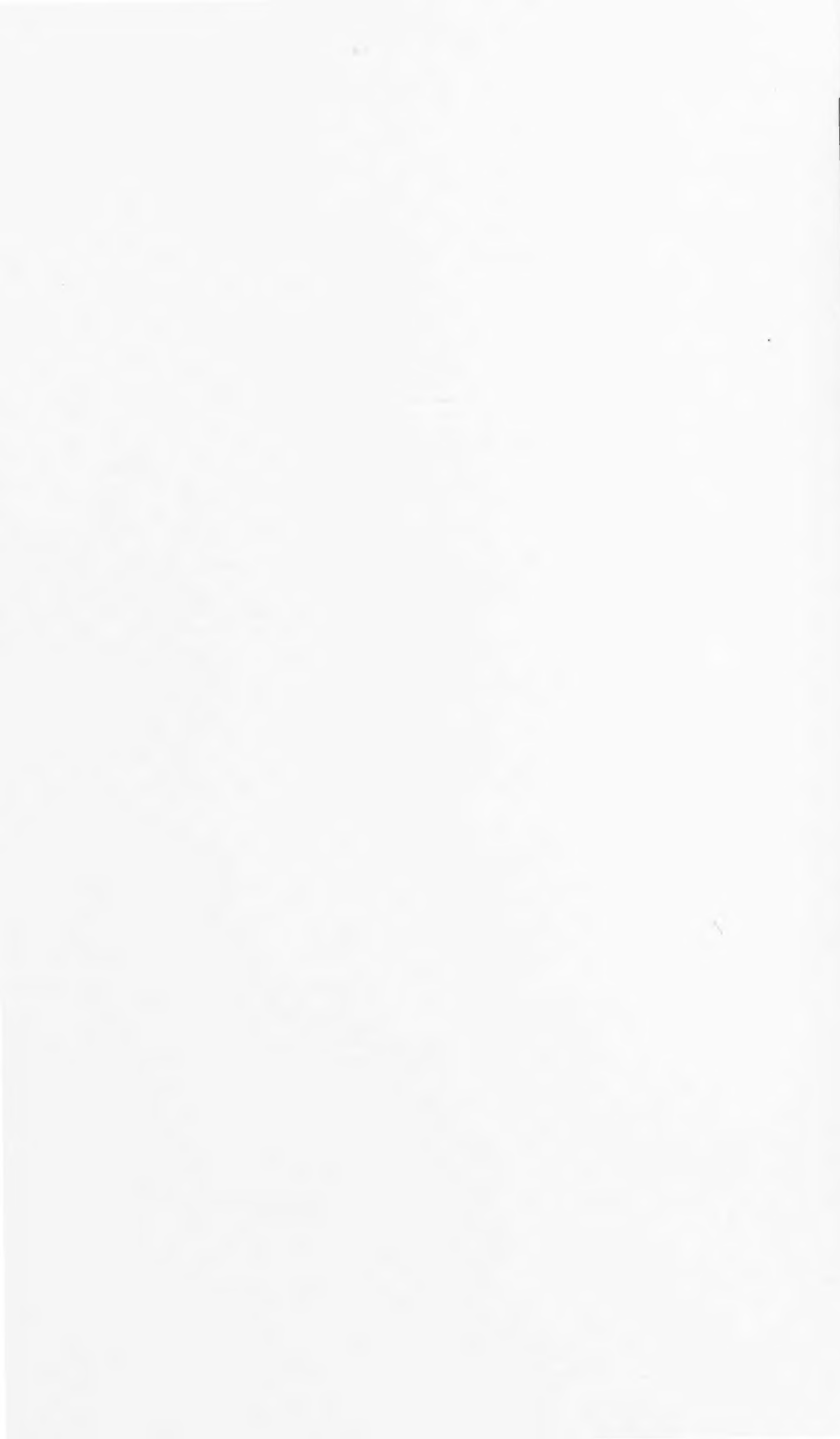
(Respondent's Exhibit No. 90 was marked for identification and received in evidence.)

Mr. Vorenberg: I would like for the record to say one word about it. It is not described by Mr. Johnson. In the lefthand margin it lists two headings; "The New England Electric System, Massachusetts Gas Companies," and the other says "Other Non-Affiliated Massachusetts Gas Companies With Over 5,000 Meters." Obviously non-affiliated means non-affiliated with the NEES system. Some of them may have other affiliations.

Also all of the information included on this working paper other than the information under the words "Total Pro Forma" at the far right in the upper group of figures is taken from Massachusetts Department of Public [1462] Utility Reports. The information shown under the heading "Total Pro Forma" represents some of Mr. Johnson's working computations at some stage along in his study. I would emphasize again that this is simply a working paper.

We would next recall to the stand Mr. C. W. Pearson who has already been sworn and has already testified in this proceeding.

Hearing Examiner Ewell: All right.



No. 636

No. 6332.

OCT 1 1965

JOHN F. DAVIS, CLERK

**United States Court of Appeals
For the First Circuit**

**NEW ENGLAND ELECTRIC
SYSTEM ET AL.,**

PETITIONERS,

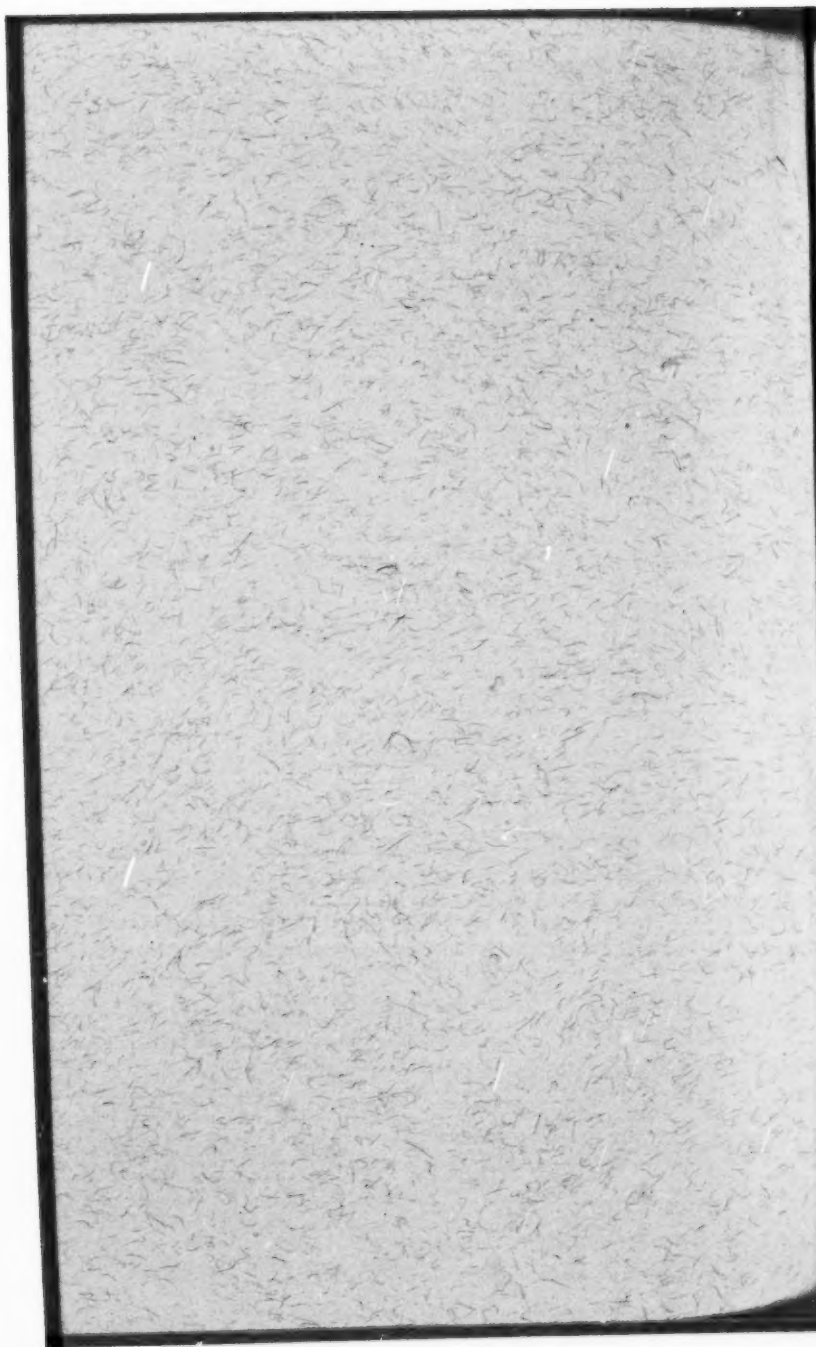
v.

**SECURITIES AND
EXCHANGE COMMISSION,**

RESPONDENT.

**RECORD APPENDIX
TO
BRIEF FOR PETITIONERS**

**VOLUME II
Testimony, Findings and Opinion and Order,
and Proceedings Relative to Review
(Pages 657 - 1296)**



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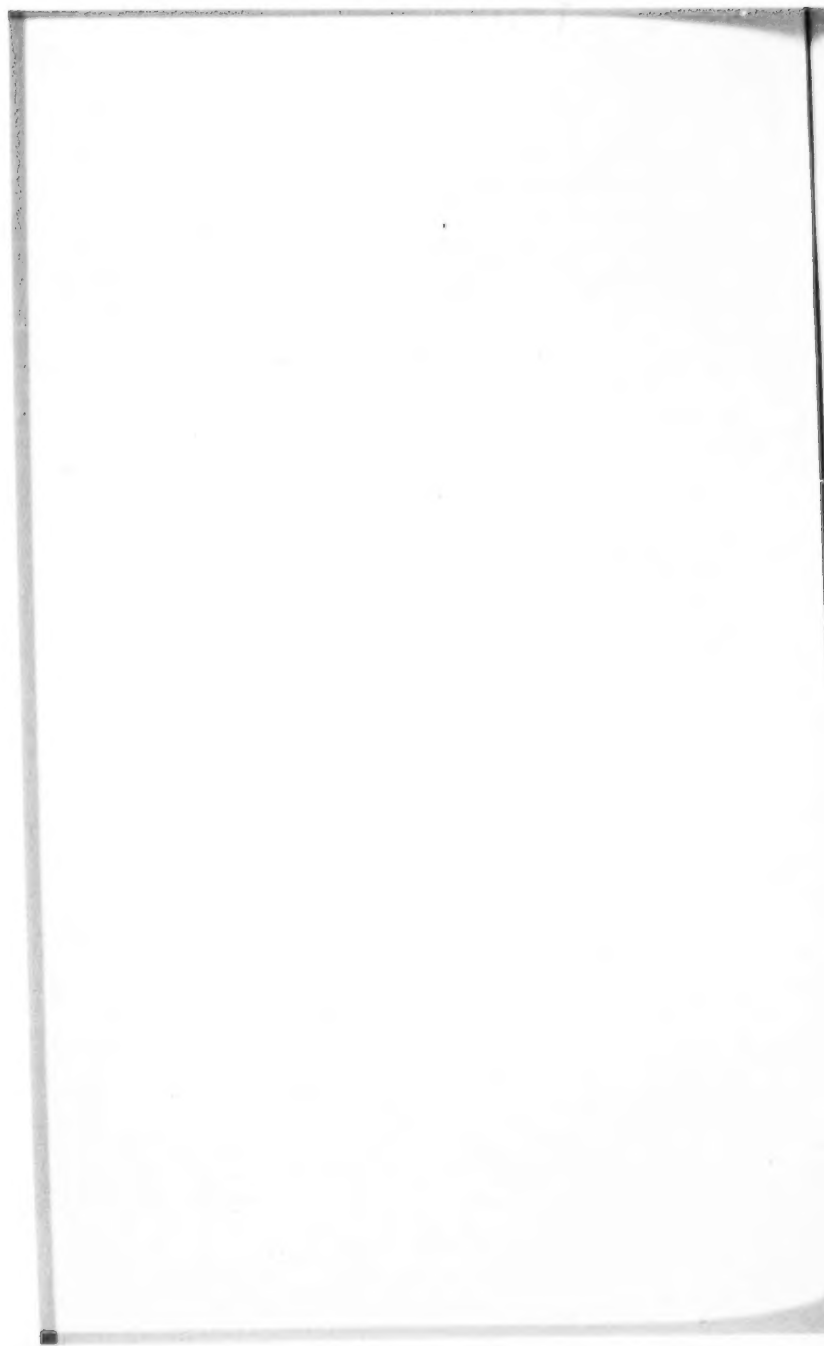
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Whereupon,

C. W. PEARSON

was recalled as a witness and, having been previously duly sworn, resumed the stand and testified further as follows:

Direct Examination

By Mr. Vorenberg:

Q. Mr. Pearson, one of your assumptions in the testimony on the individual gas company operations was that if the gas business of NEES is severed, each of the gas companies would operate independently. Is that correct?
A. Yes.

Q. Would not some other method of operation possibly be more desirable? A. Yes, if more than 50 per cent of the capital stock of each company is owned by the same single interest, the eight companies may be included as joint insureds under the same insurable risk.

[1463] Q. Did you make an independent study of the estimated insurance cost for a combined gas company operation of these eight companies? A. I did.

Q. What was the result of this study? A. This study showed that the resultant annual premium cost would be increased approximately \$154,500 over the premiums the individual eight gas companies are now paying under the NEES blanket policies.

Q. How does this compare with the insurance cost under the independent company operations about which you testified in your earlier appearance? A. As I stated in my earlier testimony the total increase in cost for the individual company operations would be approximately \$281,300. This compares with approximately \$154,500 increase for a combined operation, or a net reduction in annual increase in insurance premium costs of approximately \$126,800.

Q. Mr. Pearson, have you prepared a tabulation which shows the reduction on a system basis in insurance costs? You understand that. When we worked on the gas com-

if the eight gas companies were combined after severance rather than being severed on an independent company basis? A. Yes, I have.

Q. I show you a sheet entitled, "Gas Company Data Re: Insurance Coverages in Effect (Except Group Annuity)" [1464] and ask you to tell us what this sheet shows.

A. This sheet lists in the lefthand column the various forms of insurance which are in effect for NEES gas companies. The next two columns show for the year 1958 the actual coverages of NEES system gas companies and the aggregate costs of these coverages. The next two columns show the same thing on the assumption that the eight gas companies were severed from NEES system but were operated on a combined basis with the majority of the voting stock owned by the same interests. The third column shows the coverages for the gas companies and the estimated aggregate cost on an independent company basis after severance from the NEES system.

Q. I gather then that the last two columns in effect is a composite of what is shown in the eight sheets for the gas companies on an independent basis included in Respondent's Exhibit 89. A. Yes, that is correct.

Q. And I also assume that the figures on the line labeled "total" are the total costs of insurance coverages on each of the three bases. A. Yes, that is correct.

Mr. Vorenberg: Mr. Hearing Examiner, in view of the relationship which we have established between this proposed exhibit and Respondent's Exhibit 89, I suggest that [1465] they be admitted in evidence in conjunction with one another and that these two sheets be admitted as Respondent's Exhibit 92.

Mr. Nowlin: Mr. Examiner, I am not going to object but by my failure to object I do not concede the probative value that Exhibit No. 89 has and I reserve complete freedom to attack or move to strike later.

Hearing Examiner Ewell: Now was Exhibit 89 received?

Mr. Vorenberg: It was not received. You deferred judgment on that yesterday morning.

Hearing Examiner Ewell: Do you want to discuss that now? What is your position regarding Exhibit 89, Mr. Nowlin?

Mr. Nowlin: Well, my problem stems, Mr. Examiner, originally from the fact that all of these exhibits were related to individual companies; in other words, if they had not directed the testimony to the issue of whether or not it was a single system gas company. I still have a lot of trouble with this but since this is one isolated exhibit and the exhibit which they are now proposing to offer is related, I will not continue further objections to those two particular exhibits.

Hearing Examiner Ewell: In other words, you want them excluded?

[1466] Mr. Nowlin: No.

Mr. Vorenberg: He says he does not object as I understand.

Mr. Nowlin: I am not presently objecting but I am not conceding the probative value. We have not had a chance to examine the documents.

Hearing Examiner Ewell: Well, you are not objecting then, you are not insisting on their being excluded. I have already indicated I thought that they had a general relevance so I am going to receive them on that basis, subject of course to your reservation of the right to question their probative significance. Of course you have a right to do that as to any exhibit, as a matter of fact.

Mr. Nowlin: I would prefer, to have an orderly procedure, to have these exhibits marked for identification until I have had a chance to analyze them and we may find there are objections to them. Or we may find there are qualities

in certain respects which throws out the value of the entire exhibit.

Hearing Examiner Ewell: You can move to strike them later if you want to take a definitive position along that line.

Mr. Nowlin: The disadvantage is of having to move to strike exhibits that are already in the record. [1467] As I say I am not renewing an objection to these two exhibits, I withdraw the objection as far as these two are concerned.

Hearing Examiner Ewell: The record will show here both Exhibits 89 and 92 are received in evidence.

(Respondent's Exhibit Nos. 89 and 92 were marked for identification and received in evidence.)

By Mr. Vorenberg:

Q. Mr. Pearson, could you explain why a single operation of these eight divisions should reduce the premium cost as compared with the total premium cost for eight independent operations? A. Yes, I can. As you will recall in my earlier testimony, I stated that costs for insurance are based on the law of large numbers. A simple indication of this would be under the Comprehensive Crime Coverage.

The total estimated independent company's annual cost is \$20,600. To insure the eight companies as a single operation, the estimated blanket contract annual cost would be \$6,700. The annual difference would be \$13,900.

Q. Mr. Pearson, we have been discussing throughout your testimony the estimated cost for individual company operations and combined company operations. In some cases you have stated that the rates used are based on manual [1468] rates and in other cases you have stated that the rates are negotiated. Can you give us a simple explanation of these statements? A. When I referred to manual rates, I was referring specifically to a manual used by a supervising bureau covering the form of insurance under discussion. This manual contains the rules and regulations for writing the insurance protection to which it

refers and also includes the rates on which the premium is derived. The rate itself is subject to credits and debits based on experience and which may be further modified by special rating plans.

As respects the negotiated rates, this occurs only in those instances where the regulatory bodies do not have jurisdiction and therefore any rate derivation is based on negotiations with the insurer. In this type of rating procedure a great deal depends on the type of risk and past experience, both as respects the individual risk under consideration and the industry in which the risk is.

A further wedge in this sort of rate negotiation occurs when there is a large premium volume involved. In other words, the larger the risk the lower the premium cost is in relation to a measurable item, such as revenue.

Q. Why can't the companies operating on an independent basis combine their insurance requirements and purchase blanket contracts covering their operations? [1469] A. This would not be practicable in that the insurance companies have filed specific rates in the State of Massachusetts and are subject to the manual rules concerning related interests.

Q. What do you mean by "related interest rules" and "subject to a manual"? A. Each form of insurance is under the jurisdiction of a supervising bureau. This supervising bureau issues a manual which includes rules, regulations and rates relating to that insurance. For instance, Automobile Physical Damage Insurance is under the jurisdiction of the supervising bureau, "National Automobile Underwriters Association." The related interest rule under this coverage reads as follows:

"Automobiles of an individual, partnership, firm or corporation, or more than one partnership if one individual has a majority ownership in each partnership or more than one corporation if the insureds

parent corporation has a majority ownership in each subsidiary corporation."

This wording specifically requires that only automobiles under one ownership may be scheduled in a single contract for rating purposes.

The Comprehensive Crime is subject to the supervising bureau "The Surety Corporation of America."

Workmen's compensation is under the jurisdiction [1470] of the supervising bureau "National Council on Compensation Insurance." Under the ruling of the manual issued by National Council it states that two or more risks shall not be combined for rating purposes unless the same person or group of persons or corporations owns a majority interest.

Liability Insurance is under the jurisdiction of the supervising bureau "National Bureau of Casualty Underwriters" and their ruling is that allied or subsidiary interest shall not be included unless the insured holds the majority and financial interest therein. The Massachusetts Automobile Rating & Accident Prevention Bureau is the supervisory bureau for automobile liability insurance. Here again the ruling is that a combination may be made if the same person or group of persons or corporation holds a majority interest in the corporation.

Q. Have you made any effort to break down the increase in cost by the individual forms or insurance? A. I have, as you will note from the schedule submitted.

Q. Will you discuss each form of insurance and give us the reasons for the increase in premium costs, but first enumerate the areas where there are no changes. A. There will be no difference in premium cost under the unified company operations as respects Destruction of [1471] Valuable Papers, Water Heater Warranty Bond, Direct Damage Gas Explosion, Extra Expense Insurance, Fire,

Extended Coverage and Vandalism and Malicious Mischief, Rents, Insurance and Sprinkler Leakage Insurance.

Q. Would you please discuss the other coverages? A. Under the Automobile Physical Damage Insurance, it was necessary to make a rerating. Taking advantage of as many credits as possible, we determined a resultant rate of forty cents per \$100 of value. On the basis of this new rate the insurance cost under this coverage would increase by approximately \$900.

Q. Please continue. A. The next individual coverage is the Comprehensive Crime section of the bond coverage. In my earlier testimony on the eight individual gas companies I discussed the difference in cost. I stated that we made use of all credits possible but did not include coverage for open stock burglary. For reasons given before, there would be no coverage on open stock.

The combined gas company combined operation could purchase the remainder of the coverage under this Comprehensive Crime for an annual additional cost of \$6,140.

As a matter of interest, if you were to insure the open stock burglary, and my figures did not include this assumption, the annual cost to insure this exposure [1472] would be approximately \$7,700.

Q. Do you consider the Comprehensive Crime Insurance protection, excluding the open stock burglary coverage, necessary? A. Yes, sir, for the same reasons given in my testimony on the individual companies.

Q. Will you please continue with your review of the schedule? A. Yes, sir. The first form of insurance under the heading "Casualty Insurance" is Workmen's Compensation. In computing the premium for the over-all companies combined we were in the position of looking backward and knowing what the companies were and what had occurred in the year 1958. Therefore, on the basis of 1958 Workmen's Compensation losses it was evident that a

retrospective plan could be applied to the best of the combined gas companies' Workmen's Compensation Insurance program.

The increase in cost based on this retrospective plan would be \$5,800. However, if the experience during the year 1958 had been poor, the increase in cost could have been \$50,300. In other words, the application of the retrospective plan will allow the insured to enjoy premium savings in the year his experience is good. However, he will also be penalized in the event his experience was poor.

Q. Would you please continue with the casualty program? [1473] A. Yes, sir. The second heading under the "Casualty Insurance" is noted as Personal Injury and Property Damage. This section relates to the possible liability which might be incurred through the operations of the company. The method of computing the premium is similar to that used for the individual gas companies upon which I gave testimony. At that time I stated that the general experience of the eight companies was good, therefore the rates for this coverage on a combined basis does include the reduction represented by equity and experience credits and a possible reduction in acquisition cost.

The resultant credit which was computed earlier to 32 per cent for the over-all combined program. However, to be on the conservative side and because of a possible reduction in acquisition cost we have used a credit of 10 per cent as being equitable. The resultant annual premium increase for this coverage is \$102,600.

Q. Please continue with your description of the casualty program. A. The comments I made concerning the individual companies on the Automobile Bodily Injury and Property Damage Coverage will likewise apply here. We averaged the credit for those companies which would be subject to a credit which resulted in a figure of 10 per cent. Again [1474] to be conservative this coverage premium is

computed on the basis of 30 per cent and results in an increase in the premium cost of approximately \$25,300.

Q. Please continue. A. The excess of Primary Coverage which provides additional limits of liability in order to take care of the catastrophe coverage is the next item under "Casualty Insurance." This coverage uses annual revenue times a rate in order to arrive at a premium. Proper negotiations should develop the equitable rate of twelve cents per \$100 of revenue for a three year contract. This rate applied to the annual revenue would result in an increase in premium over that paid under the NEES program of approximately \$6,700.

Q. Would you please continue with the rest of the schedule? A. The next section is headed "Explosion Insurance" under which there appears the coverage "Boilers, Air Tanks, et cetera." This coverage as I stated in my earlier testimony provides insurance protection for explosion of boilers, air tanks and other pressure vessels. On the basis of a combined operation the annual increase in premium cost would be approximately \$1,800 over that paid under the NEES program.

Q. Would you please continue? [1475] A. The last coverage to be discussed under this schedule of insurance is the Group Life, Accidental Death and Dismemberment and Accident & Health. My prior testimony on the individual gas companies covered this subject quite thoroughly. While the estimated cost for the gas companies combined is greater than that of the NEES blanket policy, it does show a substantial reduction of retention required by the individual programs for the gas companies. This retention increases by approximately \$5,300 over the retention paid under the NEES program.

Q. Mr. Pearson, having now explained the Exhibit 92 would you kindly summarize at this point? A. It is quite evident from my studies that the NEES insurance program

provides broad form insurance protection to all of the companies included for coverage thereunder of which, of course, the gas companies are a part. In the separation from this blanket program and being subject to purchasing insurance on their own, the gas companies would have great difficulty in obtaining adequate coverage and would as shown on Exhibit 89 which I have described be subject to substantial increase in rate. Even if the gas companies were a combined operation, while the coverages would be somewhat similar, there would be some areas of "no coverage" and they will still be confronted with paying an approximate additional cost of \$150,000.

[1476] Mr. Vorenberg: We have no further questions of Mr. Pearson.

Mr. Nowlin: Mr. Pearson, I notice under the heading "Casualty Insurance, Workmen's Compensation" the term "statutory." What do you mean by that?

The Witness: It is under the statutory laws of the State of Massachusetts where they have certain benefits to be paid and they are stated in the Labor Department and they have all those amounts.

Mr. Nowlin: Do you know whether or not Massachusetts law requires a company to carry any of these insurance coverages listed on Exhibit 92?

The Witness: Well, they do require the Workmen's Compensation unless they file as a self-insurer. The rest of the coverage is for their own protection. They can buy it or do without it.

Mr. Nowlin: That is all I have at the present time, Mr. Examiner.

Hearing Examiner Ewell: All right, the witness is excused at this time.

Mr. Quarles: At this point I would like to recall Mr. Quig.

Hearing Examiner Ewell: Mr. Quig.

[1477] Whereupon

ROBERT S. QUIG

was recalled as a witness and, having been previously duly sworn, resumed the stand and testified further as follows:

Direct Examination

By Mr. Quarles:

Q. Mr. Quig, you have heard all the testimony which has been given in this proceeding by the representatives of the NEES System as well as the testimony of the EBASCO representatives, have you not? A. Yes.

Q. The EBASCO representatives have described in considerable detail their own participation in the preparation of the EBASCO Report which was offered as Respondent's Exhibit 58 and the Supplemental Report received as Exhibit 91 during your earlier testimony and have fully described their studies in connection with this Report. In your original appearance you told generally of your responsibility as the chief EBASCO representative. Will you now tell us in somewhat more detail about your role in the preparation of the original report and the Supplemental Report? A. That is a big order. It is a little like asking the engineer in charge of the construction of a large building what his role was in the job.

First let me add just a few words as to our [1478] staffing of this job.

Q. All right. A. As I have said earlier, the individuals from EBASCO who have testified are only part of the team who actually worked on this project. And in addition, the entire EBASCO organization whose man power and resources I have described were made available for consultation where appropriate. Not counting people who worked sporadically or for relatively short periods of time on it or clerical and stenographic staff, there were a total of fourteen members of our organization deeply engaged

in the work on this study. And even without bringing our figures up to date for work done in the last few days, my records indicate that more than 4,500 man hours have been devoted by our people to this job.

The reason for the extent of the work is obvious. You simply do not study an organization with as many facets as the NEES System and project in detail a drastic reorganization of a very important part of its business without an expenditure of this sort of effort.

Q. Against this background, would you now give us an idea of what you yourself did in this study? A. As I said, like the chief engineer in a building project, I participated at all levels. I was in on the initial meetings a year ago this spring during which the [1479] scope and plan of our study was mapped out, as well as subsequent meetings in which the plan was evolved and developed as the job progressed. I worked with our own people and with the NEES representatives in determining what materials and information we should have as the starting point for our work. I worked closely with each of the individuals who were in charge of particular areas at all stages of their work.

Q. I assume that does not mean that you duplicated each of the studies and other efforts of your team. A. Of course not. Once the pattern of our study was established, our specialists in various areas, in conjunction with their counterparts in NEES, did the spade work. At various stages questions of coverage and other matters arose and I was consulted. As the facts and pro forma data emerged, I reviewed them with our own people and with NEES personnel.

Q. Describe the nature of these consultations. A. Since this work covered the full period of time from the beginning of our study until we put the covers on the report, it was obviously of a different nature at different times.

At the outset the questions and problems were more in the nature of how we should proceed, what type of an organization the pro forma gas companies should have, and what data we needed in reaching conclusions [1480] concerning these pro forma organizations. This sort of problem continued throughout the study.

In addition, as various sections of the report began to take form, I reviewed them both with EBASCO personnel and jointly with the appropriate NEES personnel to test our projections and estimates. Where we felt further work needed to be done, it was done.

Q. To what extent are you familiar with the present NEES operations and organization? A. I would say that I have a solid familiarity with all phases of the present NEES organization and operations which have any bearing on this particular case.

Q. Do the pro forma organizations and figures as set forth in the instrument marked for identification as Respondent's Exhibit 58 reflect your conclusions and those of EBASCO as to what would be required if the NEES gas companies were severed from the System and operated as independent units and do the pro forma organizations and figures shown in the Supplemental Report reflect EBASCO's and your conclusions with respect to the combined operation? A. Yes, they do. As the EBASCO representative who is in charge of this project and also deeply involved in it, I take full responsibility both on my own behalf and on behalf of EBASCO as a firm for what is set forth in both [1481] the original EBASCO report and the Supplemental Report. I might add that the report does not reflect all our conclusions, but just those relative to the pro forma organizations and the dollar effect of severance of the gas companies from the NEES System. We have not set forth there our views as to the very serious intangible effects of severance.

Q. Mr. Quig, I think it would be helpful if you would briefly review the important areas involved in the EBASCO study and tell us how you have reached your conclusions with respect to each. A. I will be very glad to do that, sir.

Q. Will you first give us your views with respect to the executive, administrative and staff personnel costs which are reflected in Part 2 of each of the gas reports? A. This obviously is one of the most important areas of our study and, therefore, one to which I have paid close attention. Mr. Simes has already testified as to how the estimates reflected in this section of the reports were arrived at. We considered in detail just exactly what type of executive and administrative staffing would be necessary for each of these companies in order for them to render service at a level comparable with their present operations and we made a similar analysis on the combined basis.

The staffing of operating utilities is an area [1482] in which EBASCO has had a great deal of experience. The EBASCO team on this case has supplemented their own knowledge by consultation with others in our organization and comparative figures of other gas companies.

It is our judgment that the organization we have projected in each instance represents the minimum organization both in terms of the number of people and compensation which could carry on the business of each of the companies involved and render service at the standards currently deemed necessary.

Q. Mr. Quig, why do the pro forma organizations for the Gas Companies shown in the various sections of the EBASCO Report show substantial increases in personnel? A. That is part of the price of severance. Currently through the medium of the Gas Division, the utmost utilization is made of manpower at the Executive and Administrative staff level for the benefit of all eight Massachusetts Gas Companies. With severance these functions would

still have to be performed but no longer could the same degree of utilization of Executive and Administrative manpower be achieved.

Q. Will you now give us your views on the Treasury and Accounting sections of the report? A. As the testimony that has already been introduced shows this is another area where there would be a [1483] major loss of economy both on the independent company and the combined basis. Because of the extent to which the present district treasury organizations of NEES are close-knit integral units performing treasury and accounting services for the companies in their areas, it required a great deal of study on our part to determine what would happen on severance. As he has indicated, Mr. Johnson in collaboration with the NEES treasury people has given this matter the most intensive study.

I have been over this ground with Mr. Johnson many times and have worked with him in arriving at the findings expressed in the EBASCO report and the Supplemental Report. I am satisfied that the pro forma organizations for performance of the treasury and accounting functions are in each case conservative yet efficient and economical.

Q. Mr. Quig, from what has been said by earlier witnesses I gather that some of the increased costs for personnel in the executive and administrative areas and in the treasury area is due to the Service Company's no longer being available to perform specialized services to the gas companies. Why was this assumption made? A. We did not see any basis for assuming that if the gas companies were severed from the New England Electric System that the Service Company which would remain as [1484] part of the System would continue to perform services at cost. Both from a legal and a business point of view that would simply be out of the question; therefore, as far as the gas companies are concerned, NEPSCO would be an outside

service company. It is a matter of speculation as to whether this Commission would permit NEPSCO to provide services to the unaffiliated gas companies. It certainly is not so authorized at the present time.

However, even if it were permitted to perform such services, this would not have a material effect upon our judgments reflected in our projections. This is so because those services which we have assumed could be purchased by the severed gas companies, whether on a combined or independent basis, would in our opinion cost more if purchased from NEPSCO on a profit basis that we have assumed in setting up our projections.

Q. Do I understand then that your pro forma organizations in both reports reflect the result of your having considered for each function what seems to you to be the most economical method for having such function performed including the obtaining of services from outsiders? A. Yes, sir, that is very definitely correct. It should be noted where you talk about having an outside organization such as EBASCO, Stone & Webster or like that, that while these firms have the technical ability to perform [1485] many of these services, an outside organization coming in to carry out specific functions would not initially have the depth or knowledge which is so valuable to making sound judgments and recommendations on individual matters, as compared with the NEPSCO people who now have a full and detailed knowledge of the working of these companies.

Hearing Examiner Ewell: Did you assign any dollar value to the cost of these outside services?

The Witness: No, only as the testimony has indicated concerning certain specific cases.

By Mr. Quarles:

Q. Have you also considered the projections related to space costs which Mr. Simes covered in his testimony?

A. Yes, I have. I have seen all of the properties involved

and have discussed with Mr. Simes and with NEES people various alternatives as to space utilization and rental of new space which severance would involve. The determination of exactly how a remaining occupant would use space if its companion company moved out is obviously not capable of precise measurement. I am satisfied that the judgments and projections which we have made are sound, conservative, and consistent with service objectives.

Q. Mr. Quig, would you give us your conclusions concerning that section of the EBASCO report which relates to NEPSCO? [1486] A. The problem of figuring the loss of economies which would fall initially upon NEPSCO and secondarily upon the electric companies in the System is, as Mr. Simes has indicated, rather involved. At the date assumed for severance in our reports, that is, January 1, 1959, NEPSCO stood as an organization designed to serve a multiplicity of functions for the gas and electric companies. Each division of NEPSCO was staffed for this purpose with highly trained personnel with detailed knowledge acquired over years of experience of the many intricate operations of the System.

It is obviously not an easy thing to say what would happen in each of these divisions and offices if you removed the gas companies. It requires the type of close examination Mr. Simes has made in consultation with the NEES people concerned as to how and where the work could be reorganized and what parts of the organization could be contracted.

Because of this difficulty we have projected losses of economies to NEPSCO and through NEPSCO to the electric companies only where it seemed to us quite clear that the size of a given portion of NEPSCO could not be reduced. Even that reduction in size of NEPSCO which we have projected in our study would not be possible with-

out impairing its ability to render quality service to the [1487] electric companies.

Q. If I understand you correctly, you are saying that the losses of economies might exceed those that are shown in the last page of the NEPSCO Section of the EBASCO report. A. That is right, and in any event I feel confident that the losses could not be any less than those which are set forth.

Q. Mr. Quig, I notice that one of the largest items of increased expense on either theory reflected in your study is in the area of insurance. You have heard Mr. Pearson's testimony and I would like to hear your comments on this very substantial increase. A. It is inherent in the nature of insurance and the insurance business that there is an enormous disparity in the rates which small and large purchasers can obtain. Mr. Pearson's job with EBASCO is helping utility companies obtain insurance and advising them on insurance matters. What he did in making this study is exactly what he would do if he were given the assignment of obtaining insurance for these eight companies on an individual basis or a separate group. On the basis of the work which Mr. Pearson has done and my review of this work with him I am satisfied that the increased costs which he has projected on each assumption are those which would result.

[1488] Q. Would these companies obtain the same degree of insurance protection for these increased costs? A. No. As Mr. Pearson has pointed out, the coverage which the eight independent companies could obtain individually or as a group—and this is particularly true of the small ones—is considerably lower than the present limits of insurance which protect the gas companies, and consumers and the public now under NEES ownership. I do not think anyone should underestimate the seriousness of forcing these com-

panies into a position where they simply cannot obtain the levels of coverage which are now available.

Fortunately accidents happen rarely in this industry, but unfortunately when they do happen they are often of serious proportions. I would be very concerned both from the point of view of the financial stability of the company and the interest of gas consumers, as well as from the point of view of claimants among consumers and the public, to see the gas companies deprived of the upper limits of their coverage.

I do not think it needs elaboration that we are in a period of increasing jury awards and settlements for personal and property injuries and these are days when we are advising our clients to increase rather than decrease their insurance coverage.

Q. Mr. Quig, in addition to the area that I have [1489] asked you to summarize since you returned to the stand, there are other increases in costs reflected in the EBASCO report which the other EBASCO witnesses have covered. Without going into detail, would you summarize your views on these. A. I assume you are referring to such items as production, distribution, utilization and garaging; transportation; professional services; and other miscellaneous items.

Q. Yes, that is correct. A. The basis on which these increased costs have been set is the same as those which I have already discussed. For example, I have reviewed with our people and with the NEES representatives the type of utilization staff which would be required by each of these gas companies if they had to operate alone or as a separate group.

Q. What standards were used in preparing the projections? A. It is possible to estimate within a general range how much work a man can do in a given working day. Of course this depends on the nature of the work and the

area. Based on our experience and on comparisons with other companies in this area and taking into consideration the variable factors applicable to each situation, we [1490] projected the conservative number of people who would be needed to handle such things as reading-in and reading-out meters and clerical work on meter records. A similar process was used with respect to garage facilities and other similar functions.

Q. How about transportation? A. The figures reflect such additional vehicles as we considered absolutely essential. You can argue all day as to whether you could save money by cutting out one of these cars and using taxis or other means of transportation. On this I can only say that we have given careful thought to such questions as this, and I am satisfied that our projections are reasonable.

Q. Mr. Quig, you have expressed your views for us on the effect on the gas companies of severance from the New England Electric System and explained to us the basis for your conclusions. I would now like to turn with you to the effect which the gas companies' severance would have on the electric companies which would continue as part of the NEES System. I understand from the testimony which has been given that the principal effect of severance on the electric companies would naturally enough be in those areas where gas and electric functions are carried on jointly.

Mr. Nowlin: Mr. Examiner, I am going to object [1491] to any testimony along the line Mr. Quarles is indicating. I have quoted before in the record from the Philadelphia Company case the Commission has held that the losses to the electric system would not be relevant to the issues involved in this proceeding.

Now since we had the previous discussion I have gone to the pains of looking up the history of the Louisiana

case and I note that even after the decision by the Fifth Circuit Court of Appeals the Commission indicated in its brief in the United States Supreme Court that it was not accepting the decision of the Fifth Circuit. Therefore, since four of the five Commissioners who were party to that brief filed in the Supreme Court are now present Commissioners, I think they are holding the Philadelphia case has been sustained by the Commission. Therefore, this line of testimony would be irrelevant.

Mr. Quarles: I would say, sir, that it is not a proper conclusion from the fact that the Commission wished to urge a different view on the Supreme Court; that until the Supreme Court or the Circuit Court had changed the rule made in the case in question by the Fifth Circuit Court of Appeals the Commission would not follow it. In other words, I can well imagine the Commission asking the Supreme Court to take a different view, but unless and until the Supreme Court did take a different view or the Fifth [1492] Circuit reversed its previous decision it would seem to me that stands pretty much as the law of the land and I would expect this Commission to go along with it.

In any event it seems to me that this is relevant. We have had the ruling before permitting evidence of this kind to come in. Mr. Nowlin has reserved his right to argue against it either as to its relevance or its weight. I urge on you that this evidence that we are now offering is entitled to admission.

Mr. Nowlin: I would like to point out my disagreement with Mr. Quarles. The Commission does have a decision sustaining its interpretation of the substantial loss in the Philadelphia Company case. That was a Circuit Court of Appeals decision. Subsequently in its brief to the United States Supreme Court this present Commission has verified or restated, as I put it, its position that it took in the Philadelphia case that was sustained in the Circuit Court.

I interpret it that this Commission still asserts that this line of testimony is not relevant.

Hearing Examiner Ewell: Well, supposing the Supreme Court sustained the Circuit Court decision?

Mr. Nowlin: That would be a different question.

Hearing Examiner Ewell: On that point then you might have to reopen the hearing to take this testimony.

Mr. Nowlin: The Supreme Court did not sustain.

[1493] Hearing Examiner Ewell: Has the Supreme Court passed on it yet?

Mr. Nowlin: No, and our brief said it would not have to pass on it; that if they decided the procedural question, they would not have to get to the subsequent question on the cost of economies.

Hearing Examiner Ewell: I think as I have indicated before there is enough doubt on the situation to let it come in. As I said before if the law should be changed it might necessitate reopening this case. It is already in, it has been placed in the record.

Mr. Nowlin: Well, it was placed in the record without the supplemental information which I am supplying this morning.

Hearing Examiner Ewell: Well, do you want to have it all excluded? Is that your motion, you want to exclude it?

Mr. Nowlin: Yes.

Hearing Examiner Ewell: You want to strike it out?

Mr. Nowlin: Yes.

Hearing Examiner Ewell: That would strike out a substantial part of the case, would it not?

Mr. Nowlin: No. I am in effect moving to strike what has already been put in and I am objecting to [1494] anything further going in.

Mr. Quarles: I would urge that the amount is not really important, the principle is. With the case still open

for the Supreme Court to pass upon we claim to be entitled in this case to put in the necessary evidence, to permit us to try it in court, and in any event to present it before this Commission for a review of its previous positions and for a decision.

As you have pointed out, to include it prejudices no one's right; to exclude it would result in the event of our ultimately prevailing in a court in our having to come back and try the whole case over again. At the end of presentation of this kind of testimony, to add a little more would do no harm and the striking out could be serious.

Mr. Nowlin: If you took an appeal to the Supreme Court and the Supreme Court should reverse and go up on a legal question, I don't see that the evidence in the record would have anything to do with the appeal in the Supreme Court.

Hearing Examiner Ewell: Well, it might not have anything to do with the appeal but it might have something to do with the Commission's view of it.

Mr. Nowlin: If the Commission should reverse itself, then I assume it would have to take the evidence but I don't know why we should assume the Commission reverts [1495] itself when it had four of the present five Commissioners, and in a brief to the Supreme Court asserted its holding in the Philadelphia case.

Hearing Examiner Ewell: Get back to the question. Read the last question.

(The pending question was read by the reporter as follows: "Mr. Quig, you have expressed your views for us on the effect on the gas companies of severance from the New England Electric System and explained to us the basis for your conclusions. I would now like to turn with you to the effect which the gas companies' severance would have on the electric companies which would continue as part of the NEES System.

I understand from the testimony which has been given that the principal effect of severance on the electric companies would naturally enough be in those areas where gas and electric functions are carried on jointly?")

Hearing Examiner Ewell: I understand your motion now, Mr. Nowlin, is to strike all the previous testimony that bore on the question of the loss of economies that might be sustained by the electric companies, is that right?

Mr. Nowlin: Mr. Examiner, I object to the testimony going in on the subject. You have read into that a motion to strike and I assume if you were sustaining on [1496] my objection to this evidence then my next move would be to move to strike.

Hearing Examiner Ewell: It seems to rest on the same footing.

Mr. Nowlin: Sir, the only thing I did at this point was to object to testimony going in. If you had sustained that, then I would move to strike any testimony that is presented in the record on this same subject.

Hearing Examiner Ewell: Well, I am going to take it subject to that and reserve ruling on it. I can see that you have put up a powerful argument in view of the situation that you have cited with reference to the position taken in the briefs so I want to have a little more opportunity to consider it. I want to take it now with the understanding that I will reserve on that question, rule on it at a later time.

Mr. Quarles: Do I understand you are accepting the evidence and we may have the witness answer the question?

Hearing Examiner Ewell: That is right.
By Mr. Quarles:

Q. Would you answer the question, Mr. Quig? A. That is correct, except of course that the removal of the gas

companies would, as I have mentioned, leave it up to the electric companies to carry alone the [1497] cost of the Service Company.

Q. I understand that, and I propose to ask you to come back to that shortly. First, I would like to have you indicate the basis of your conclusions with respect to the direct effect on the electric companies. A. The five sections of the EBASCO report appearing from pages 901 to 1320 of our report describe the effect on the five electric companies whose operations are carried on jointly with companion gas companies. As an examination of the report will reveal, the degree of joint operation varies from area to area, and obviously enough the impact on the electric companies likewise varies. Subject to these variations in particular cases, the pattern of the effect of severance on the electric companies is generally the same.

Q. Would you elaborate on this, please. A. The largest single increase in cost falling on what I will call the companion electric companies is in the area of customer accounting and collection.

Hearing Examiner Ewell: The reason I wanted to reserve on this question is that I would like to have the opportunity to read this brief that Mr. Nowlin has referred to before I rule on it.

Do you have it there, Mr. Nowlin?

Mr. Nowlin: Yes.

[1498] Mr. Quarles: May we have an opportunity also to submit a memorandum on the subject?

Hearing Examiner Ewell: You mean a written memorandum of your own?

Mr. Quarles: Yes, sir.

Mr. Nowlin: That may not be necessary.

Hearing Examiner Ewell: At what time?

Mr. Quarles: Before you rule to strike any evidence.

Hearing Examiner Ewell: Well, that seems like a rea-

sonable request, but I would like to read the brief first. As Mr. Nowlin said, it might not be necessary.

Mr. Quarles: I would still urge that a position taken in a brief does not carry the same weight as a decision of the Commission or a decision of the court, and that the Commission could well ask for a different interpretation of the law but unless and until it got a different interpretation would regard the decision of the Fifth Circuit as controlling.

There are also in this case facts that may cast a very different complexion on the whole question. Each of these questions of relevance has to be examined in context.

Hearing Examiner Ewell: That seems reasonable, so I would like to hear from you on that.

[1499] Mr. Quarles: Thank you.

By Mr. Quarles:

Q. Mr. Quig, would you continue with your answer?

I think perhaps it would be clearer if we went back to the question when I had asked you to elaborate on your previous statement. A. The largest single increase in cost falling on what I will call the companion electric companies is in the area of customer accounting and collection. The reason for this is obvious. That is an area of work that lends itself to a high level of joint operations whereby manpower and machines can be used jointly on an economical basis.

Q. Are you satisfied that the projected increase of cost in the customer accounting area is what could reasonably be expected in the event of severance? A. Yes, I am, sir.

Q. Would you indicate the basis of this conclusion? A. The process with respect to determination of increased costs of customer accounting for the remaining electric companies was really no different than in assessing the increased costs which would fall on the severed gas companies. We looked at the work which had to be done in

the customer accounting area, and on the basis of our experience in working with other companies and our knowledge [1500] of other companies in the New England area, we set up what we considered to be a conservative organization with which the job could be done.

In making these estimates we of course had the benefit of the experienced estimates of the NEES people presently engaged in the customer accounting operations as one of our guideposts in making our judgment. Then, of course, I relied on Mr. Johnson's wide experience in this field and likewise checked our conclusions with others in EBASCO who are also experienced in this field.

Q. In general, is what you have said concerning customer accounting applicable to the other treasury areas as well?

A. Yes, it is. Of course in the general accounting and stores areas the dollar impact was substantially less. But the same standards of judgment and testing were used in arriving at our conclusions.

Q. Why should there be an increase in the administrative and staff personnel costs to the electric companies resulting from severance? A. As an examination of the reports will reveal, the top executive management of the individual electric companies would not be severely affected by severance. The principal effect would come on specific jobs which are handled on a joint basis, such as the increase of costs [1501] resulting from the electric companies having to carry the full burden of individuals who previously performed joint functions as part of the district treasury organization or such jointly shared personnel as safety supervisors and personnel directors.

Q. In making the projections of increased cost in the administrative and staff area, did you follow the same process as was employed elsewhere? A. Yes, sir, we did.

Q. And you are satisfied that the electric companies would in fact have to carry the extra costs you have pro-

jected in order to perform a level of service comparable to the present? A. Yes, I am.

Q. Why should there be an increase in the distribution departments and garages of the electric companies?

A. Here again certain functions have been performed on a joint basis, such as receipt of customer service orders and trouble calls, and here again we had to provide not only the gas companies but also the electric companies with an adequate organization to perform these service functions. There is no doubt that the present joint basis of operation of these functions makes for more efficient utilization of manpower and facilities.

Q. I notice that one of the areas of increased costs [1502] which have been projected for certain electric companies is with respect to rentals. A. That is correct. Mr. Simes has already described in considerable detail the problems which would be faced by both the gas and electric companies in finding new space upon severance.

Q. And in your testimony a few minutes ago concerning the rental area as applied to the gas companies you indicated the basis of your conclusions with respect to the figures which are projected. Is what you said there applicable also to the projected rental costs which would fall on the electric companies? A. Absolutely. It is obvious that it is simply the other side of the coin.

Q. In general, Mr. Quig, would you say that the figures which you have given as the estimated loss of economies resulting from severance are on the conservative or the liberal side? A. Very definitely, sir, on the conservative side.

Q. Will you elaborate that? A. Yes. Because of the nature of this proceeding and the nature of this study, we determined along with NEES at an early stage that we would lean in the direction of conservatism in making our

judgments in the matter of people, salaries, space and the like.

[1503] In the nature of things, if in a study of this size you are generally conservative about all of your projections, you could be quite certain that when the actual organization was set up there would be an increase of loss of economies here and there over those projected, so that your aggregate actual loss would be significantly higher than the projected loss. Obviously this is something that is not capable of exact measurement, and it is for that reason that we adopted a generally conservative standard in making our study. Having done so, we have something that we feel we can stand behind without reservation.

Q. Mr. Quig, turning for a moment from the dollar effect of your conservative estimates, will you tell us what is the general effect which you would expect severance to have on the gas companies, and particularly their stability and quality of service, if the pro forma organization were to become the actual organization? A. The answer to that question moves into the areas of intangibles. As Mr. Cahal has pointed out, the gas and electric businesses of the NEES companies are promoted as aggressively as it is reasonable to assume they would be if they were operating on their own.

In reviewing the entire business, operations and organization of NEES and its constituent companies, [1504] we reached the definite conclusion that there are no significant benefits which would flow to either the gas or electric companies from separation of the gas companies. This being the case, there is nothing of significance on the plus side in the so-called intangible area to be achieved by severance.

Q. What about the minus side? A. The various members of the EBASCO team have already given many in-

dications of what the disadvantages of severance would be which are not specifically measurable in dollars. By way of example only, Mr. Pearson has pointed out that, dollars aside, the smaller gas companies on an independent basis simply would not in many instances be able to get the insurance coverage they now have. Mr. Johnson has pointed out that the convenience to consumers of having one meter reader, one place to pay bills, one check and one envelope, would disappear. Mr. Simes has pointed out that the talents of top management on broad policy questions which is now available from NEES and from the gas division simply would not be available to the gas companies on an individual basis, and certainly not at the salary levels we have projected.

While some of this could be obtained from outside consulting firms, it is very clear to me that the close familiarity which the top management now has with [1505] the problems of all the companies is an essential ingredient in their ability to provide policy direction, and there certainly could not be a complete substitute for this from outside sources. Also it should be noted that the projected loss of economies does not include any figure for such outside consulting services.

Q. Are there other intangible disadvantages resulting from severance? A. Yes, there are many. The testimony which has been given both by the EBASCO witnesses and the NEES System witnesses amply suggests what these are, and I think by and large they are obvious. In general, I think it can be said that these gas companies operating on their own under New England competitive and economic conditions could not fully achieve the level of service of their present operations and would not have the strength that they now have both in terms of long-range planning and the ability to meet the vicissitudes of the future.

Q. To what extent would severance result in non-recur-

ring costs not shown in your report? A. Well, the biggest of these is what Mr. Johnson has referred to; namely, the cost of physical separation of basic customer records, including meter reading, customer history and many other data. It is no small matter both in terms of cost and inconvenience to separate and move operations [1506] that are as closely united as these treasury and accounting functions.

Again a review of the testimony which has been given and of our report will, I am sure, amply demonstrate that there would be enormous non-recurring costs which would have to be amortized against the future operations of these individual companies. These costs and their amortization are not reflected in any of the figures of these reports.

Q. Do you have any idea as to what they might amount to? A. Mr. Johnson has already indicated something of the order of some \$200,000 or \$250,000 in the accounting area. My own guess is, looking at all of the costs together, that it might be something in the area of one-half a million, perhaps considerably more.

Q. What about other dollar losses not reflected in the report? A. There are many items not capable of estimation with the same level of accuracy as shown in our report. Perhaps the most obvious of these is in a function such as purchasing. We are certain, and again it is simply a matter of common sense, that there would be significant dollar losses to the gas companies from the loss of centralized purchasing.

[1507] Another similar area is the loss of efficiency in the treasury and accounting areas resulting from the individual companies being unable to afford a Systems and Methods staff department. These are only two examples. The record is replete with many others.

Q. Mr. Quig, I show you a one page sheet entitled "New England Electric System, Gross Income of Affiliated Gas

Companies, Before and After Severance of Gas Business, Twelve Months Ended December 31, 1958." Will you explain this exhibit to us? A. There are five columns on this tabulation with Column 1 listing the gas companies of the NEES System. Columns 2 through 5 show the effect of severance assuming independent separate operation after giving effect to Federal Income Taxes but before Interest and Dividends. As the title describes, this is a "before and after" tabulation.

By "before and after" I mean this shows for the individual companies for the year 1958 in Column 2 the gross income position as it was under the present method of operation or before severance; in Column 3 the gross income position as it would have been pro forma or after severance; and in Columns 4 and 5 the difference in dollars and per cent reduction in gross income that would have been caused by severance.

Note that the dollar totals in Column 4 are the [1508] same as the adjustment to gross income figures shown in Respondent's Exhibit 59.

After application of Federal Income Tax, the over-all effect of the severance of the gas business as related to gross income "before" severance would have been to reduce the gross income of the companies as follows: eight gas companies, \$957,600 or 31.4 per cent. The decreases in gross income range from \$15,000 to \$273,100 and percentage-wise from 21.1 per cent to 63.8 per cent.

Q. Mr. Quig, was this tabulation prepared under your supervision? A. Yes, it was.

Q. Does it correctly set forth the information it purports to show? A. It does, sir.

Mr. Quarles: I offer it as Respondent's Exhibit No. 93.

Mr. Nowlin: Mr. Examiner, I have tentatively a mixed objection here. I concede that the effect on the individual companies may eventually have some remote relevance if

it should be determined that one of them could not constitute a part of a single integrated system, but these computations reflect results after the application of income tax rates. That is consistent with my previous objection and the Commission's prior holding that the tax effects are [1509] irrelevant. I am going to object to the exhibit on the ground just stated.

Mr. Quarles: I think Your Honor has ruled on both of those objections in connection with the offering and receipt of earlier testimony. I believe Mr. Nowlin has a standing objection to evidence relating to the individual companies. I confess that I cannot understand his position on it because in any event and on any interpretation it is relevant to the initial determination of the status of these companies as a part of the present system.

We must present evidence showing whether there would be loss of economies if each one were separated from the system before it can be determined that they now constitute a part of the integrated system or that any combination of them constitute an integrated system.

Mr. Nowlin: As I indicated, Mr. Examiner, my principal objection is that it shows statistical information after the application was in practice and I say the Commission has held that the consequence of income taxes is not relevant to the question of whether the loss of—

Hearing Examiner Ewell: What case do you cite on that point, Mr. Nowlin?

Mr. Nowlin: The City Service case. In fact, I think there were three of them. The City Service case and the Federal Light and Traction case, and I am not certain [1510] whether it is in the Philadelphia Company case or not but I think it was.

Hearing Examiner Ewell: Will you give me the exact citation of those cases?

Mr. Nowlin: Yes, sir, I can.

Mr. Dunn: Mr. Examiner, if I may interrupt I think this admission of the tax testimony was one that I was handling. I believe I expressed before that these holdings by the Commission were back in the 1940's, in the early 1940's. I expressed the belief that we have had another fifteen years of experience since then, consolidated tax savings have become a fact of life and have now been worked into the rate structures of the gas companies around the country in general and specifically in Massachusetts.

I don't believe I pointed out before, and I would like to do it now, that the consolidated tax return is available to companies such as NEES beginning in 1941. So you can see in the early 1940's this was a new situation and had not become a well established fact of life.

So I would urge that these earlier cases that Mr. Nowlin is referring to are not applicable at this time. We must look at changed circumstances. I believe that this consolidated tax evidence is relevant to these proceedings.

Hearing Examiner Ewell: This is a matter that was brought up before and I think I received the evidence and I [1511] was persuaded into doing that largely by the fact that these tax considerations are considered and weighed in the rate proceeding.

Mr. Nowlin: Mr. Examiner, I think that would be applicable to any loss. Congress must have recognized when it passed this Act that there were bound to be some losses in severance in terms of substantial losses.

Hearing Examiner Ewell: Yes, but I thought it went to the weight. Even though there may be losses I think the amount of loss is certainly relevant and material when you have to add them all together. I mean it just isn't one loss, it is the sum total of losses. It seems to me that is the deciding element.

Mr. Nowlin: There is no question but what that question must have been urged upon the Commission in that

it took it up and discussed it. It said this was not the type of a loss that was encompassed in the terms of substantial economies. That appears in Section 11.

Now the fact that there has not been any change or apparently any attack on those decisions would indicate just the reverse of what Mr. Dunn says; namely, that it was good law then and it has—

Hearing Examiner Ewell: Do you want to move to strike all that testimony, too, regarding tax? I don't see if this does not come in why the other should not go out also. [1512] Mr. Nowlin: I am objecting to this exhibit on the ground that it is misleading.

Hearing Examiner Ewell: What about all the other evidence? It seems to me that something more substantial, a little more substantial—I don't want to characterize it but it seems to me there is more evidence on the losses due to tax considerations than this exhibit indicates.

Mr. Dunn: That is correct.

Mr. Nowlin: I think the same information is in the EBASCO reports. I am certainly going to object to that.

Mr. Dunn: Mr. Nowlin was suggesting that this matter that I had stated was probably argued to the Commission back in the 1940's. I would just like to add that the consolidated tax return was such a new thing at that time I doubt if the state commissions had had much opportunity to consider whether the consolidated tax savings should or should not be considered in rate cases. They have since evolved these principles so that I doubt if this has been fully presented to the commission.

Hearing Examiner Ewell: This Commission is bound by the attitude taken by the state regulatory commission on rates.

Mr. Nowlin: Mr. Examiner, that is not the question. I think we are off base here. It is not a question of whether these taxes go into the rates, it is a question [1513] of

whether or not the tax losses are a part of the substantial losses that are mentioned in the Act. I assume any operating expense, legitimate expense would be a proper argument in the rate making point. I would assume that taxes—I am not an expert on rates but the one thing I seem to recall is that for years and years and years taxes are one item that have been acclaimed in rate proceedings and permitted. There is nothing new about taxes being included in the rate basis as far as I know. As I say, I am not an expert.

Mr. Dunn: Sir, I am not quite sure whether Mr. Nowlin is stating that in his opinion a loss to a consumer is not a loss of economy to be considered under Section 11(b)(1) (A). If that is his position, I disagree with him. I think that a loss to a consumer is certainly one that should be considered.

Hearing Examiner Ewell: Of course I am bound by the Commission's holdings in these matters. If the facts fit within the four corners of the decision—that is what I am trying to determine, that the facts here squarely fit within the four corners of the Commission's decisions on the point.

Mr. Nowlin: Here is a special section in this case in the City Service Company. It is headed "Tax Savings as Satisfying Clause A." This was a decision on May 5, 1944. [1514] I have not got the case before me, but I think the Philadelphia Company case was in 1948.

Hearing Examiner Ewell: What does this case say on the subject?

Mr. Nowlin: "It was estimated that filing consolidated returns instead of separate returns would result in savings for 1942 of \$970,000 to Public Service of Colorado, and \$230,000 to the Mid-Continent Electric System, and the future savings expected to result

from consolidated returns are the 'substantial economies' claimed to satisfy Section 11 (b)(1)(A).

"These estimates appear to be based on a continuation of system control over the extractive properties. As we noted however, the oil business cannot be maintained, and the effect of severance of the oil business on tax 'savings' has not been explored.

"It should be noted that these asserted 'economies' have no relation to operational factors, and the extent of the 'economies' depends, not on the type of property involved or the way in which properties are operated, but on the accidents of ownership and the state of tax legislation at a given time. These savings might be present in the case of utility and totally unrelated non-utility properties. To regard such 'economies' as definitive under Clause (A) is to administer the statute in light of temporary and accidental factors."

[1515] Now that is not the case I had in mind, the other case goes beyond the holding in this case.

Mr. Dunn: Mr. Examiner, I don't dispute the statements that Mr. Nowlin is point out from that case and I expect he would find somewhat similar statements in other cases, but I think it is obvious from what he has read the Commission had this evidence before them, that it was admitted in the record, considered relevant, and the entire question is one as to the weight to be given to the evidence. And I think that is equally true at this stage.

Hearing Examiner Ewell: Well, I am going to take a middle-of-the-road position on the matter. The language just read by Mr. Nowlin seems quite dispositive as far as this Commission is concerned. I am going to allow the questions so that they will be in the record and I am reserving it for the time being for that. I have not had enough time to study the question to make a final ruling

on it. I am going to allow the question so in the event that you can prevail with the Commission the evidence will be there for them to consider and for you to argue about.

Mr. Quarles: Thank you, sir. We want merely to get into the record the evidence that is essential for determination of the several issues that have been raised. I would not feel that the language read was by any means dispositive of this particular case because it clearly [1516] related so directly to the peculiar facts; also because apparently from the language read the tax loss was supposed to be the total economy.

Mr. Nowlin: If you want the facts, you better hush. You may lose it.

Mr. Quarles: I merely want our position to be clear on the record. Again I point out that we consider these things to be relevant for examination in the light of the facts of the particular case.

I understand that we may now have the exhibit admitted.

Hearing Examiner Ewell: Yes, I will receive it.

(Respondent's Exhibit No. 93 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Mr. Quig, I now show you a sheet entitled "New England Electric System - Net Income of Affiliated Gas Companies Before and After Severance of the Massachusetts Gas Business (Assuming Independent Operation of Gas Companies in Twelve Months Ending December 31, 1958)." I ask you what this shows? A. This is comparable to the sheet which has just been introduced as Respondent's Exhibit 93 except that it shows the effect which allowance for interest payments would [1517] have on the figures as set forth in Columns 4 and 5 of that exhibit.

Q. What is the significance of these figures? A. They show the effect which severance would have on income available for the payment of dividends.

Q. Was this prepared under your supervision and does it accurately set forth the information which it purports to show? A. Yes, sir, it does.

Mr. Quarles: I offer it as Exhibit 94.

Mr. Nowlin: Same objection, Mr. Examiner.

Hearing Examiner Ewell: This does not involve the—

Mr. Nowlin: The same problem is involved.

Hearing Examiner Ewell: Involves the same question. In other words, it is dependent on the tax?

Mr. Nowlin: Yes.

Hearing Examiner Ewell: Well, I will make the same ruling on it.

(Respondent's Exhibit No. 94 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Now returning to Respondent's Exhibit 93, is "gross income" as shown on that exhibit reasonably comparable [1518] to the amount available for return as used by regulatory commissions? A. Yes, it is. The Gross Income or Return is available to pay: Bond Interest; Preferred Dividends, if any; Common Dividends; and something to put aside for surplus.

Q. Are you familiar with the pattern of rate increases that these companies have been permitted by the D.P.U. in the past in order to maintain an adequate Gross Income or Return? A. Yes, I am.

Q. What is the significance of the pattern of these rate increases to this proceeding? A. These companies have sought rate increases from time to time because they were confronted with impairment of their Gross Income position which endangered their ability to render adequate service. The main reason for the worsening of the Gross Income position has been the frequent increases in the cost of gas purchases from the natural gas pipeline companies whose rates are subject to the Federal Power Commission. Of

course, there are other reasons such as the increases in wage rates and in costs of materials and supplies caused by the inflationary spiral.

The fact still remains that the Gross Income position of these gas companies is constantly under the pressure of rising gas costs, and they can ill afford to have their gross income position further impaired by increased costs which would most certainly arise from severance and from the loss of economies that are evident in the present arrangements. Such impairment would almost certainly require retail rate increases.

Hearing Examiner Ewell: All right, gentlemen, at this time we will adjourn until two o'clock for lunch.

(Whereupon, at 12:35 o'clock p.m., a recess was taken until 2:00 o'clock p.m., of the same day.)

[1519]

AFTERNOON SESSION

2:00 p.m.

Hearing Examiner Ewell: All right, gentlemen, let us resume, please.

Mr. Nowlin: Mr. Examiner, before we resume further, I would like to buttress an objection I made just prior to the noon recess to the introduction of evidence on the impact on the electric system. I happened to think at lunch-time of another case in which the Commission in 1951 reaffirmed its prior position taken in the Philadelphia Case. That is in General Public Utilities Corporation, 32 SEC at page 807. The particular quote that I have in mind appears at page 838 and the top of 839, and if you do not mind, I would like to read the paragraph into the record.

"The Company also submitted estimates which purported to indicate the 'loss of economies' to the separated electric company as compared with the electric department of the combination company. We have previously held

that 'losses in economies which may be considered under Clause (A) are limited to those directly related to the additional system sought to be retained,' and not to the principal system.

The Philadelphia Company, 28 SEC 35 (1948) affirmed sub nom Philadelphia Company versus SEC, 177 Fed. Second, 720 (CADC 1949.)

Mr. Quarles: Mr. Examiner, I do not think that anything would be gained by my further arguing the same point [1520] that we have gone over several times. I would just point out two things: First, that apparently relates only to the 11(b)(1) question, and not to the definition 2(a)29, in determining the present status of these companies within the system.

Secondly, that that decision, too, was well before the Fifth Circuit Court decision.

Hearing Examiner Ewell: Why do you say it relates only to the 11(b)(1) question? Won't both be involved?

Mr. Quarles: Not necessarily so, sir. There may not have been any question as to the status of the Company within the system. I do not know whether that was an issue. There may have been only one separate company, or it may already have been determined to be an integrated system.

Here we have the two questions, first, the one that Mr. Nowlin has urged that we consider first, of whether or not these eight gas companies are now a related system. We need, in considering that, I think, to consider every aspect of it.

Hearing Examiner Ewell: I would like to ask Mr. Nowlin if this petition for certiorari in the Supreme Court in the Cities Service Case—whether or not the Supreme Court granted certiorari in that case. It goes back to 1956.

Mr. Nowlin: I am sure it was granted, Mr. Examiner. [1521] Hearing Examiner Ewell: It was not granted.

Mr. Nowlin: I am sure it was granted, because the case was reversed, the Lower Court was reversed on the jurisdictional point. There was no decision reached on the merits of the loss of economies.

That is my understanding. I am speaking not from actual knowledge, but from information from a person who worked on the case.

Another point in this case was not to argue the point, but to substantiate the Commission's holding on the legal principles.

Hearing Examiner Ewell: Well, after reading the Commission's brief in the Cities Service Case, which quite clearly indicates that the Commission considered the question, and still adheres to its position, that the losses to the principal system do not have probative value in these cases, I am impelled to take a different view from what I have heretofore.

I thought, as I indicated before, such losses would be relevant on the broad base of the public interest. But the Commission certainly considered that question, and has evidently cited that these losses simply do not have probative value in a proceeding of this kind.

So I think I am bound by it. I do not see that there would be much point in my making a ruling if it is contrary [1522] to what it is to be in view of the Commission on this question.

And I am now, unless you can put it in a different light from the way I see it now—I am inclined now to grant the motion to strike in both of these instances. The testimony is there. I think you will have to address yourself to the Commission and argue the point before them. But at this level, and at this point, it seems to me I am bound to observe the Commission's policy and decision.

Mr. Quarles: And you refer to in both cases—

Hearing Examiner Ewell: Both on the tax question

and on the losses to the electric utility, that is, to the principal system.

I think they stand on the same footing in principal.

Mr. Quarles: I have previously urged on you that a position taken in a brief would hardly be regarded as necessarily stating the final conclusion of the Commission.

Hearing Examiner Ewell: Well, that may be. But I think it is final so far as the Commission is concerned, as far as their attitude. I mean they say that it is not admissible, or at least it has no probative value. They have held that very definitely.

They are urging that on the other Court.

Now, until the other Court disagrees with that, and makes a definitive ruling contrary to that, certainly [1523] I think it would be binding upon me.

Mr. Quarles: I assume that the brief you are referring to is the one that was filed by the Solicitor General.

Hearing Examiner Ewell: That is right.

Mr. Quarles: And does it appear that that does express the view of the Commission?

Hearing Examiner Ewell: Well, I thought it did, if the Commission submitted it to the Supreme Court.

Mr. Quarles: The Solicitor General, I think, is the one who does that, undoubtedly, in collaboration with the Commission's Counsel. And this was joined in by the Commission's Counsel. But it is hardly sufficient to warrant the assumption that it was a decision by the Commission that they won't recognize a Circuit Court decision.

Hearing Examiner Ewell: Well, I think that is rather a technical point—it may be. But I cannot believe that the Commission would—I cannot speak for the Commission. It will have to speak for itself. But there it is. And Counsel is not only—Counsel for the Division has not only cited this, but he has cited a number of other cases. And nothing has been cited by this Commission contrary to that.

Now, if you can point to a holding by this Commission that is contrary to that, that may throw the matter the other way.

Mr. Quarles: That was the point on which I had [1524] asked the privilege of reviewing the cases, and submitting a memorandum.

Actually, I think that perhaps it is not a matter of great importance which way this ruling goes, because at the present time the evidence is all in the record.

I do not believe there is any further evidence to be introduced bearing on this, except as it may be reflected incidentally in some exhibit. It is now available to us to argue the points before the Commission.

Hearing Examiner Ewell: That is precisely what I had in mind in permitting it to come in as I did.

Mr. Quarles: Precisely. But if it is now struck from the record, that raises the mechanical problem, where it has run through the whole stream of testimony, and is so interwoven as to determine just what of the record is struck.

The Ebasco Company Report, which is one of the principal elements in this entire case, to some extent does involve both of these points.

If your ruling would mean that the Ebasco Report could not be admitted either, then we are in the position of needing in substance to go ahead with oral testimony and other exhibits that would completely reinstate all of this evidence in the record, and let what is now in the record stand as an offer of proof the converse situation of allowing [1525] the record to stand as it is, and allowing Mr. Nowlin to argue his exception to the ruling as you originally made it, which enables both of us to argue the point before the Commission without the practical difficulty of trying to unravel this complicated record, to cut out the portions that are affected, and then to go ahead with days of additional hearing to

get back into the record the portions that are clearly relevant.

So that on both legal and practical grounds, I would urge that the record be allowed to stand as it is, and that we be allowed to argue the point before the Commission in conjunction with the substance of the case, because this is both procedural and substance, and the points are the same.

Hearing Examiner Ewell: Well, that makes pretty good sense to me as a practical matter.

What do you think about it?

Mr. Nowlin: Well, Mr. Examiner, that is one reason I have been reluctant to let any of these exhibits go in, except those that we can see on their face, on initial examination, seem to be relevant. Because if these exhibits had been marked for identification, and then we have a chance to establish these points as we go along, we are in a better position then either to move to strike part of it or all of it. As it is, we have been just on a fishing expedition, because we did not know what was coming next.

[1526] Hearing Examiner Ewell: Well, maybe that was principally my fault. If I had this decision before me, though, at the outset, I might have seen it differently from the beginning. I thought—until I had seen this, I thought there was a real doubt as to what the Commission might—what it might hold on this question, in light of the decision of the Fifth Circuit.

Now, this removed that doubt, but I should have known this, I suppose, the same as you did. But there is so much—so many decisions.

Mr. Nowlin: I am not intending to criticize you. Frankly, I knew each day, as some of these questions would come up, something would start churning in my mind, and I would try to think of some case.

When we came in here, I did not have all these cases in my mind. I did not have a chance to review them all. But

as these questions have arisen, I have tried to take time during recesses and after we adjourned at night, to verify some of my memories, and that is the way I ran across them. Just today, I happened to be going to lunch, and I thought I read another case. I did not compile these all. I just put them in here as I came across them myself.

Mr. Quarles: And that is obviously an unfortunate way and an unfortunate atmosphere in which to attempt to decide anything that does have such sweeping consequences.

[1527] To the best of my knowledge, there is not a single case in which the Commission has held that evidence of this kind should have been excluded or should be excluded. There have been various cases in which, on the facts of the particular case, the Commission has said this was irrelevant, or this should not be given much weight.

As a matter of fact, in the case that Mr. Nowlin was just referring to, and part of which I think he read into the record, if you continue a little further, you find this statement:

“Further, the estimates of ‘loss of economies’ to the electric properties were restricted to the electric properties of Jersey Central. Even if the ‘loss of economies’ to the principal system were a relevant factor, the estimates should have been based upon all the electric properties of the principal system, that is, the entire Penn Jersey system, and not merely to a portion of such properties.”

In other words, the Commission had it in, gave it consideration, and presumably, by way of hedge against an adverse decision in court, said in any event, having considered it, this is not adequate coverage.

So that there still, will all due deference to Mr. Nowlin—there still remains a very substantial question as to whether on the facts of a particular case, different kinds of evidence should be given consideration.

[1528] And here this evidence, whether or not it is regarded as relevant in and of itself, it does have an effect on the computations for the gas companies, and as a buttressing of our computation of losses there.

Mr. Nowlin: Well, Mr. Examiner, it may well be that there wasn't any objection raised to the testimony coming in in those cases. I don't know. That is pure conjecture.

The point I make is that as a matter of law, the Commission has consistently ruled on this point—1944, 1948, 1951, and in the Louisiana Case, which occurred in 1956 or 1957. And it repeated in its brief to the United States Supreme Court in 1957 its views.

So it seems to me that it is a pretty well established principle of law through several Commissions that evaluating the loss of substantial economies, that it is not proper to take into account the losses—the losses to systems other than the initial system that is sought to be retained.

It has this disadvantage: If these exhibits are permitted into evidence, to go into evidence, then the Staff, at least theoretically, or practically, has got to prepare to cross-examine on exhibits which are not relevant. And that tends to prolong the hearing and extend it beyond matters that are relevant.

That is the disadvantage of having to move to [1529] strike. If these exhibits go into evidence, then the staff is going to make in its analysis and study—has got to assume the burden of cross-examining, or either take a chance on them being admitted without testing.

That is the disadvantage of being put in a position of having to move to strike.

In the first place, they should be relevant, material, and competent when they come in. That should be established.

Hearing Examiner Ewell: Well, if you are right on the law, though, they won't be considered anyway.

Mr. Nowlin: Well, means we have got to, if you are

going to permit them to come in—we have got to be prepared to cross-examine on them. It will be a lot of time wasted on everybody's part—the Company's part, the Staff's part, and your part.

Mr. Quarles: It is our thought that you would not have to cross-examine on anything that you were sufficiently sure was irrelevant, that it won't be considered by the Commission.

That, however, is your decision as to what you would prepare to cross-examine on. The portion of it that you regard as irrelevant, I should think you would ignore.

Hearing Examiner Ewell: That is what I had in mind. [1530] I didn't want to put it that strongly.

Mr. Nowlin: It is an elemental principle of law that exhibits and testimony ought to be relevant and material before they are received in evidence—not put in evidence and then moved to strike.

Mr. Quarles: I quite agree with you, and I would not offer any exhibit or any bit of evidence in a case unless I considered it to be relevant.

I consider every portion of the evidence we have offered here to be relevant to one or more of the issues presented.

Hearing Examiner Ewell: Well, as I said before, it is probably my fault, because at that point I thought I had a reasonable area in which I could exercise my own discretion. I have now reached the point where I feel that I do not have that area.

The Commission has already ruled otherwise, and I am bound by it. That is the crux of the situation.

Mr. Quarles: The Commission has not ruled in any case that evidence should be excluded. It is a basic principle of evidence in administrative procedural hearings that in all questions of doubt, the evidence comes in. It is also clear that the admission of any evidence, even irrelevant evidence, is not reversible error.

The exclusion of relevant evidence is reversible [1531] error.

Here, as I have said several times, our factual situation is so different that we consider that we are presenting a case that is novel to the Commission, that we are in a position different from any of the cases that have previously been presented; that these various things that in certain other factual situations might not have been relevant are relevant here.

Just as one illustration of it, we have pointed out that it is relevant in considering the losses in the gas situation that the same loss, the same customers would bear the loss as it falls on the electric companies.

You have an overlap here of over 75 per cent of the gas customers who also have the electric services. And you will get the loss hitting them both ways. That has a bearing on the substantiality of the loss, even if you do not consider it as a dollar amount.

Also, the matter of the hard-pressed economic situation of the Gas Companies in New England being at the end of the line, and with the losses which in other situations might not be regarded as particularly significant there or significant, substantial, and perhaps even determinative of the future.

Mr. Nowlin: Mr. Quarles, do you have any idea how many dollars are involved in this tax problem?

[1532] In other words, if you did not include taxes, what would the effect be?

Mr. Quarles: I cannot off hand give you the dollars amount. If you did not include them, you still would have very substantial losses of economies.

Hearing Examiner Ewell: Of course, the tax question would not involve the same difficulty in excising it from the balance of the record. But the losses to the utilities would involve a considerable problem. But they both stand on the

same legal footing, as far as I could see, so there won't be much point in letting one in without the other.

Mr. Quarles: No, sir. There is a definite difference between the two in this respect, at least, as has been argued before on the tax matter.

Mr. Dunn: The matter of the taxes is entirely distinct from the matter of effect on the principal system.

Mr. Nowlin: I cannot hear you.

Mr. Dunn: Excuse me. The matter of taxes is entirely distinct from the matter of the effect in the principal system. The effect of taxes is a measure of loss, we claim, on the Gas Companies themselves, and we feel is a relevant factor to be considered.

I do not believe that the Louisiana Case discusses the tax problem at all. Am I correct?

Mr. Nowlin: I did not hear you.

[1533] Mr. Dunn: I do not believe the Louisiana Case discusses the tax problem.

Mr. Nowlin: I don't know. I don't think so. It was discussed in the Philadelphia Case that was sustained, and the Commission there made a very pointed decision on the tax matter in the Philadelphia Case. It was sustained in the District Court of Appeals.

Hearing Examiner Ewell: In the Philadelphia Case, page 73, Volume 28—I don't know whether this is in the record or not, but at the risk of repetition, I think it might be helpful to put it in the record.

It states:

"In addition to the specific claim of increased expenses reflected in Coffman's studies, respondents contend that other losses, while perhaps not capable of precise measurement, would also result in segregation. As to most of the claimed 'other losses', there is nothing in the record to indicate the extent or even to support the existence of such losses.

“With respect to the inclusion in these claims losses of ‘the saving resulting from the use of a consolidated tax return by Philadelphia Company and its subsidiaries’, it may be noted that we have on previous occasions considered and rejected the argument that tax savings constitute ‘substantial economies’ within the meaning of Clause (a). We have [1534] pointed out that such savings bear no relation to any operational function of retention of control, that the argument assumes a continuation of current tax laws which may be changed, and that furthermore, we cannot permit the incidence of tax savings to disrupt the basic policy of the Act that holding companies generally be limited to a single integrated system.

Moreover, it should be noted that, while respondents have attempted to claim this tax item as an additional loss, their aggregate figures do not take into account the very much more substantial tax reduction which would result from their estimated increased expenses. See Note 13 *supra*.”

Mr. Dunn: I believe, Your Honor, that is a quotation which Mr. Nowlin read the other day, except for that last sentence, which I added, and I did point out to you that in this case, we are considering the other tax adjustments.

We are setting all Tax adjustments forth in detail, in order to give a true picture of the situation.

I hate to repeat myself, but I would again like to emphasize that these cases were back in the middle '40s, and were shortly after the 1941 date when this consolidated tax return became available for these companies.

At that point it was a new matter, you might say, [1535] a tax situation in flux. But it has now become a fact of life, and as I have already stated several times, State Commissions have taken it into consideration in establishing rates, and it is the consumers that now get the benefits of

these tax savings. If we were to take them away from the consumers, as the Chairman of the Massachusetts Commission stated yesterday on the stand, it would be a severe loss to them. And I cannot believe that the Act itself intended to ignore a loss of economies to consumers.

Mr. Nowlin: Is there anything in the record yet, or are you going to put anything in the record to show the tax effect on the combined companies?

In other words, it is my understanding you have to own 85 or 90 per cent of the common stock of these companies in order to file a consolidated return. Is that your intention?

Mr. Dunn: We do intend to ask Mr. Hanson about that upon his return to the stand.

Mr. Nowlin: But there is nothing in the record so far.

Mr. Dunn: That is correct.

Hearing Examiner Ewell: Off the record.

(Discussion off the record)

Hearing Examiner Ewell: Back on the record.

I think the record might show in the off-the-record discussion, Counsel on both sides were agreeable to my [1536] reserving decision on the question as to whether or not the evidence on the tax savings, and also in losses applicable to the electric system, should remain in the record.

Now, I want the record, of course, to show that I expressed doubt on this question all along the line, so that the present crucial position in which the matter has now been placed is not a surprise to anyone. And I think that because of the complexity of the issues, and the practical difficulties presented by reason of the voluminous material that has been placed in the record, it does seem that there is sound reason for giving the parties an opportunity to consider the evidence that has been placed in the record before a definitive disposition has been made.

* Is that agreeable to counsel on both sides?

Mr. Nowlin: It is to me.

Hearing Examiner Ewell: So that these last two exhibits, which were held in abeyance, will remain as marked for identification.

Mr. Nowlin: That is Exhibit Nos. 93 and 94.

Hearing Examiner Ewell: 93 and 94.

[1537] Whereupon,

ROBERT S. QUIG

resumed the stand and testified further as follows:

Direct Examination

By Mr. Quarles:

Q. In general, Mr. Quig, do you feel that the present methods of joint operation between gas and electric are sound? A. Yes. In my judgment, the present arrangements are an outstanding example of Yankee ingenuity in making the most of what you have in the face of adversity in the form of the roughest competition in the United States.

Q. Mr. Quig, you have heard the testimony on the arrangements under which the gas companies of the New England Electric System purchased their natural gas requirements? A. Yes.

Q. Did you study these arrangements? A. Yes, I did and I would confirm that Mr. Dalbeck has correctly stated both the present arrangements and the rates under which these gas companies in the NEES System are now taking delivery.

Q. How do these rates for gas purchased from natural gas pipelines in the New England area compare with those prevailing elsewhere in the country? A. The City Gate costs of gas in the New England area are [1538] the highest City Gate gas costs in the United States. If the price is right, the best potential market for natural gas sales in the New England area is for space heating. This

type of load, however, requires that the gas distribution companies contract for sufficient quantities of gas after allowance for peak shaving, to meet maximum day conditions of extreme cold weather temperatures.

Although these extreme cold days do not occur on an even pattern throughout the year, and may well only occur to the maximum on a few days during the cold winter period, nevertheless the gas distribution companies must make contractual commitments for these maximum day conditions and pay for these maximum commitments on each and every day of the year whether the gas is taken or not. The extent of the utilization of the maximum day commitment, throughout the year is what is known as annual load factor.

In New England, the annual load factor for space heating gas is approximately 27 per cent. Gas purchased from Tennessee Gas Transmission under their latest published tariff would cost, at the space heating Load Factor of 27 per cent, 1.11 per Mcf, or thousand cubic feet of gas, which is approximately one million Btu's.

Q. Are the purchased costs of natural gas from pipeline companies a substantial portion of the operating expenses of these companies? [1539] A. Yes. In 1958 it was the largest single item of operating expense of each gas company of the NEES System. The ratio of purchased gas cost to total operating expenses ranged from 39 per cent from the Lynn Gas Department to 51.4 per cent for the Central Massachusetts Gas Company. The average for the eight companies was 44.1 per cent.

Q. Do you agree with Mr. Dalbeck's statement as to the extent that the price of natural gas from the pipeline has increased in the New England area? A. Yes, I do agree. The cost of natural gas from the pipeline in the New England area, again using the 27 per cent annual load factor for space heating as a point of reference, has already

increased since the coming of natural gas in 1952, from 72.7¢ per Mcf to \$1.11 per Mcf, an increase of 52.7 per cent.

Q. Mr. Quig, since Ebasco works for a number of gas companies, both distribution and pipeline, can you tell us what the general view in the industry is as to the trend of prices for natural gas in the future? A. Yes. It is my opinion and that of Ebasco generally, that gas prices can be expected to continue their pattern of significant increases.

It is an accepted fact that in the gas industry that the price of gas at the wellhead in the Southwest is continuing an upward trend. Older lower price reserves are being steadily [1540] consumed. In fact, all contracts that pipelines make for new gas at the wellhead provide for escalation in the price of gas over the life of the contract. And as the pipelines reach further for gas to Canada and Mexico, the costs of getting this gas to the Northeastern market can be confidently expected to be higher still, because of higher gas prices for new wellhead contracts and increased distances hauled.

Q. Does the geographical location of the New England companies in relation to the source of gas, have an important effect on the City Gate cost of gas to the local distribution gas utility? A. Yes, it does. Gas, as most everyone knows, is found principally in the southwestern part of the United States. The Tennessee Gas Transmission line, which serves seven of the eight NEES gas companies, originates in the Rio Grande valley, well south of Corpus Christi, Texas.

Even as the crow flies, it is approximately two thousand miles from the Rio Grande to Gloucester, Massachusetts. However, Tennessee does not run in a straight line but winds its way through Tennessee, Kentucky, Ohio, the northern tip of Pennsylvania, turning eastward near Buffalo, New York and continuing into Massachusetts be-

fore terminating at the Essex Avenue City Gate Station in Gloucester, excepting the spur that runs to Concord, New Hampshire.

The economies of the cost of transmitting natural gas by [1541] pipeline are very definitely affected by the distance over which gas has to move from wellhead to the ultimate City Gate receiving station such as Essex Avenue, Gloucester, Massachusetts.

The Federal Power Commission has long recognized the distance factor as being a fundamental element in the determination of pipeline natural gas rates. Today this distance factor is readily discernable in the rate structure of any long distance natural gas pipeline company.

Tennessee Gas Transmission has six rate zones ranging from Zone 1 for City Gate service in Tennessee, Alabama and Mississippi, through Zone 4 for Ohio and Pennsylvania, Zone 5 for the State of New York and Zone 6 for New England. Using again as a point of reference the cost of pipeline gas at City Gate at 27 per cent annual space heating load factor, gas from Tennessee Gas Transmission Company in Zone 1 costs 57.4¢ per Mcf, in Zone 4, 84¢ per Mcf, in Zone 5, 96.1¢ per Mcf and in Zone 6 for New England \$1.11 per Mcf.

I think that this recitation of average cost of pipeline gas at the 27 per cent space heating load factor as a point of reference, amply demonstrates the influence of distance from the gas wellhead on City Gate prices of gas. You will note that the New England price is almost 100 per cent more than the same Mcf of gas taken at the same load factor as a point of reference would cost in Tennessee, [1542] Mississippi and Alabama. New England is truly at the "end of the line" and the very high end at that, in the matter of cost of gas.

Q. What effect does the price of City Gate gas have on the ability of these companies to market gas? A. The

relationship of the City Gate cost of gas to the costs of other competitive fuels materially affects the ability of a distributing utility to sell natural gas.

Q. What is the main competitive fuel in the New England area? A. As Mr. Dalbeck has mentioned in his testimony, the main source of competition for the average home-heating installation is No. 2 Fuel Oil. The January 1960 price of No. 2 Oil in the Boston area was 15.28¢ per gallon delivered in the customer's tank. Each gallon of No. 2 Oil contains approximately 140,000 Btu's or, an equivalent cost per million Btu's of \$1.09. Incidentally one million Btu's is approximately equivalent to one Mcf of natural gas and will be so used in any statements I may make.

Q. How does the cost of gas per million Btu's at the City Gate to gas distribution companies at the annual space heating load factor of 27 per cent, compare to the cost per million Btu's of No. 2 Oil as delivered into the customer's tank in other parts of the country?

Mr. Nowlin: What is No. 2 Oil?

[1543] By Mr. Quarles:

Q. The question has been asked, what is No. 2 Oil? A. No. 2 Oil is the type of furnace oil that you see being delivered at the average residential home by the tank wagon.

Mr. Nowlin: Thank you.

By Mr. Quarles:

Q. Will you answer the original question, or would you like it read back? A. I would like it read back.

(The question was read by the reporter.)

The Witness: The range between cost of gas per million Btu's at the City Gate at the space heating load factor and the cost of oil per million Btu's in the customer's tank runs between 35 cents and 80 cents per million Btu's without adjustment for relative efficiency, for a number of large representative American cities.

By Mr. Quarles:

Q. Can you give us some specific examples of the range between City Gate cost of gas and the cost of oil per million Btu's available to some of these other American cities?

A. Yes, I can. All the prices I shall give are for a million Btu's with oil delivered into the customer's tank and with gas purchased at the City Gate at the space heating load factor of 27 per cent.

[1544] In Brooklyn, New York, gas is 71 cents, oil 109 cents, so gas costs 38 cents less; in Detroit, gas is 71 cents, oil \$1.15, so gas costs 44 cents less; in Chicago, gas is 52 cents, oil \$1.08 and gas costs 56 cents less; and in Kansas City, gas is 33 cents, oil \$1.13 and gas costs 80 cents less.

These comparisons for representative cities in this country, show substantial cost differentials in favor of gas, without consideration of relative efficiencies, whereas in New England City Gate gas is at a price level which allows little room in pricing competitively.

These comparisons are in the nature of indices of the competitive situation in the space heating market. They show the fundamental problem which the NEES gas companies and others in the New England area are up against and which shows no signs of improvement.

Hearing Examiner Ewell: What was the relative ratio in the gas and oil prices in New England?

The Witness: Mr. Examiner, they are just about the same. The equivalent cost of gas is \$1.11, and the price of oil, that I took in January, of Boston, was \$1.09. In fact, it was the reverse—2 cents the other side. Whereas, in most of these other cities, the gas costs well below the cost of oil.

Hearing Examier Ewell: Thank you.

[1545] By Mr. Quarles:

Q. Mr. Quig, you referred throughout this portion of your testimony to the 27 per cent load factor City Gate cost

of natural gas. On the other hand, Mr. Dalbeck testified that none of the gas companies actually buy gas at 27 per cent load factor. What is the significance of the cost of 27 per cent load factor gas? A. It is perfectly true that none of the gas companies at the present time purchase their total requirements at 27 per cent load factor. This is true for a number of reasons. In the first place, each company has a considerable amount of firm load for use other than house heating.

Secondly, even with respect to house heating these companies do manufacture some gas for peak-shaving purposes. However, under present inflationary conditions it would be impossible for any of these gas companies to stand still without soon being put out of business.

Just staying in business requires that load be added and, of course, that doesn't do any good unless it can be added at a reasonable profit. The fact of the matter is that there is no market in New England for significant increase in load except for space heating.

Therefore, most of the load which is added has to be sold at a 27 per cent load factor and the significance of the City Gate cost of gas at a 27 per cent annual load factor as [1546] compared with the cost of competitive fuels is that this is a rough indication of the margin within which the gas companies can hope to make a profit on the new load.

Q. In considering the use of gas or No. 2 Oil for space heating, does gas have any advantages over oil? A. Gas has a number of advantages over No. 2 oil when used for space heating. Gas is cleaner, more efficient, does not need a storage tank, has a lower first cost of equipment, and is generally more desirable.

Q. Would you explain what you mean when you say that gas is more efficient than oil for a centrally heated residential installation? A. Efficiency is a measure of the number of Btu's in the fuel that are transformed into

useable heat as opposed to waste heat. If you ask an oilman, he will say that oil is as efficient as gas. If you ask a gas man in New England, he will probably claim that gas is about 75 per cent to 80 per cent efficient and that oil is around 60 to 65 per cent efficient.

The American Gas Association in its Publication "Gas Facts", 1959 issue, claims gas to be 80 per cent efficient compared to oil at 57 per cent efficiency. Most unbiased observers consider gas to be considerably more efficient than oil for a comparable type installation.

Q. Do you have any knowledge of the comparative annual costs of heating an average sized home in the New England area taking into account the relative efficiencies that you might assign to the various fuels? A. In figuring the annual [1547] costs of heating an average sized home in the New England area with the various fuels, I would assign these efficiencies which should be generally acceptable. Natural Gas, 75 per cent efficiency; # 2 Oil, 65 per cent efficiency. Assuming that the average house would use 120 Mcf for space heating, the annual cost under retail rates that were in effect last winter would be about \$166 for gas, compared with \$173 for oil, including \$6 for electricity and \$13.50 for servicing.

Q. Would the annual savings as between these fuels be sufficient to encourage conversion to gas? A. The annual savings resulting from converting from oil to gas would be about a stand-off looked at from price alone. As I have mentioned before, there are other advantages for gas which must be taken into account and which make necessary the utmost expenditure of sales effort if gas is to be sold for residential space heating.

Q. What would be the differentials in the annual heating bill between oil and gas for an annual heating consumption of 120 Mcf in some other cities? A. In Brooklyn, 120 Mcf of gas for space heating would cost about \$144, while to

heat with oil would cost about \$171, a differential of \$27; in Chicago, 120 Mcf of gas for space heating would cost about \$108 while to heat with oil would cost about \$150, a differential of \$42; in Detroit, 120 Mcf of gas for space heating would cost about [1548] \$96 while to heat with oil would cost about \$178, a differential of about \$82; and in Kansas City, 120 Mcf of gas for space heating would cost about \$58 while to heat with oil would cost about \$176, a differential of about \$118. In each case the differential includes \$6 for electricity and \$13.50 for servicing for oil home heating.

The existence of differentials such as these encourage conversion of space heating equipment to gas use much more rapidly than do the small differentials that exist in the New England areas.

Q. What about the prospects for electricity as a competitive energy source for space heating? A. No one knows at this moment what the effect of electric heating will be in the cold Northeast section of the country. However, in the last few years there has been a tremendous increase in the use of electricity for residential space heating throughout the United States.

Much money has been spent on national advertising creating customer interest in all areas of the country. Recently Boston Edison, which operates in a portion of the Mystic Valley Gas Company service area, filed a special rate aimed at obtaining electric space heating business. The NEES electric companies have done the same thing.

It is true that electricity is most economically adaptable in the new well-insulated home but this same insulation [1549] will reduce the cost of gas heat proportionately. The new home field is just the field where gas has had its greatest advantage in the past. Electricity is a competitive energy source for space heating that the gas companies in all parts of the country must reckon with.

Q. How about the competition for the residential load other than space heating? A. The competition for the residential cooking and water heating load is chiefly from electricity—especially again for new residences. While this load has a comparatively good load factor, it has low annual volume and this does not materially help consume the large quantities of firm gas that these companies have under contract.

Q. Do you believe it is possible to build up high volume sales in view of these intense competitive conditions in the residential home-heating market? A. Yes, I believe it is possible—given time. I think a sales program such as the NEES companies have is essential. The NEES companies are carrying on intensive sales programs at the local level that features, among other things, direct mail, billboard, newspaper and radio advertising, demonstrations by home economists, appliance merchandising, sales campaigns and cooperation with independent home builders, heating contractors, plumbers and equipment dealers.

[1550] These efforts are supported by the centralized sales promotion efforts of the Gas Division and its trained manpower which are devoted to the development of long range sales promotion plans and campaigns for the local companies and the development of and participation in regional advertising programs.

The Gas Division also supplies the local companies with expert advice on difficult equipment problems or procedures. Of course, the other essential in building volume is to keep expenses low and thereby seek to hold rates down to competitive ranges.

Q. Mr. Quig, will you discuss the competition for gas in the industrial and commercial markets? A. The competition in the industrial and commercial markets is in the main, No. 6 or Bunker C oil. The posted price in the Boston area for No. 6 fuel oil which is used as fuel in boiler plants

for industrial installations was \$2.64 per barrel. A barrel of No. 6 oil is equivalent to 6.3 million Btu's. This means that No. 6 oil costs 41.6 cents per million Btu, but many customers are buying No. 6 oil at discounts from the posted price, there being no regulatory control over the price of oil. Giving effect to these discounts, No. 6 has recently sold as low as \$2.40 per barrel which is equivalent to 37.84 per million Btu or per Mef.

Q. Are oil prices in this general range likely to [1551] persist? A. Yes, it is well known that there is currently and, experts seem to agree, for some time to come, a substantial surplus of oil available throughout the world. Massachusetts borders on the ocean and it is possible to bring to this area by tankers substantial quantities of this oil. There is probably no cheaper mode of transportation than oil tanker-borne Btu's. The only factor that is currently working towards keeping cheaper foreign oil out of this country and a resultant lowering of oil prices—even further is the existence of the present federal import restrictions.

Q. With competitive No. 6 oil currently at 37.8 cents per million Btu, or per Mef of gas equivalent, as you stated, isn't this price quite close to the commodity portion of the Tennessee rate on Zone 6 which Mr. Dalbeck discussed? A. Yes. It is clearly evident to me that with these low competitive fuel prices, no gas company is in a position to serve the large commercial and industrial market which today is using No. 6 oil. In fact, the going price of No. 6 oil after write-off of conversion costs and other appropriate adjustments, would place the costs at which gas would have to be sold at or below the level of commodity costs of City Gate gas, namely 36.1 cents, now purchased from Tennessee Gas Transmission Com. It is clear that there is little incentive to a customer to install gas burning

equipment [1552] unless other advantages of gas make it worthwhile.

Q. Would not gas be attractive for use in boilers of large steam-electric generating stations? A. Inspection of the cost of fuel at large steam-electric generating stations, much as Salem Harbor or Edgar, all in the Boston Harbor area, reveals that the cost of coal which is the main source of fuel at these stations as burned and as reported to the Federal Power Commission for the year 1958, is in the range of $41\frac{1}{2}$ cents and $43\frac{1}{4}$ cents per million Btu.

Again after appropriate adjustments and the write-off by the customer of conversion cost, there would be very little if any margin between commodity cost of the present City Gate rate of Tennessee and the price at which the gas could be sold.

In addition, there would have to be an allowance made for the cost of getting gas to these large stations from the existing distribution facilities of the gas companies. I have ascertained that currently coal is costing \$10.11 per ton at the Salem Harbor plant and \$10.55 per ton as fired, with a resultant cost of 36.38 cents per million Btu as fired. Keeping in mind that the Tennessee Gas Transmission Company's commodity rate is 36.1 cents, there is certainly no profit in such a sale. And unquestionably, from the viewpoint of the gas companies, the competitive fuel situation [1553] today has worsened from what it was in 1958.

Q. As I understand it, the gas companies contract for the maximum volume of gas needed after considering use of their own peak shaving facilities, for the maximum winter day condition. Is that correct? A. Yes. The gas company must pay the Demand Charge for the maximum volume contracted for in every month of the year whether taken or not.

Q. What is done with gas during other periods of the year that was contracted for to meet the maximum winter

day condition? A. The gas that you have just described is known as "valley" gas. The use of the word "valley" is quite descriptive because the annual pattern of take from the pipeline, when looked at graphically, reaches peaks at the beginning and end of the year but falls to a low point in the summer months,—hence the word "valley."

Regardless of the low summer use, the pipeline rates require that the reservation, or Demand Charge, must be paid for each month of the year, regardless of the volume used.

Q. Why, then, cannot this "valley" gas be sold? A. In many other parts of the country valley gas can be sold at levels about pipeline commodity cost and still well below the price of competing fuels. But it cannot be sold in very helpful volumes in New England because of the [1554] competitive price situation I have just described.

You will recall that I said that the competitive price of No. 6 oil is practically the same as Tennessee's Commodity price. Since the commodity rate must be paid on Valley gas just as on other gas, this leaves little incentive for sale of this valley gas, and even less so when the costs of conversion and relative efficiencies are considered.

With regard to the large volume potential Btu market in electric power plants now being served in the main by coal, the existing situation at Salem Harbor power plant certainly does not auger well for the disposal of valley gas.

Q. In light of what you have discussed, would severance from NEES help or hinder these gas companies in meeting the competitive situations in which they find themselves?

A. I think it is clear from what I have said about the competitive economies of the gas business in New England that even the slightest increase in costs of serving customers, could seriously impair the ability to sell gas. We have demonstrated in some depth that severing of these eight gas companies from the NEES System would increase

their operating expense, reduce their gross income and lead to their seeking retail rate increases.

If to the competitive situation I have described—and which has been underlined by other witnesses who have pointed out the reasons the NEES companies were later than some other New England companies in taking full advantage of the opportunity offered by the arrival of natural gas—if there is added the additional burden of further rate increases made necessary by increased operating expenses due to severance, the end results could well be that these gas companies will have priced themselves out of their logical market.

The railroads and local transit organization, in New England and elsewhere, have already experienced this same succession of events to such an extent that there is great pressure on the Commonwealth of Massachusetts to subsidize certain of these rail operations by payments from the public purse at the expense of all taxpayers.

Q. Mr. Quig, are you inferring that the inability to price gas service competitively would impair the financial stability of these gas companies? A. Yes, I am. Inability to price competitively results in loss of business and revenue associated therewith. This may well be such as to impair the financial stability and credit rating of these companies and materially affect their ability to render adequate service to customers in accordance with their present high standards and those considered by the Department of Public Utilities as required by the applicable laws regulating public utilities in Massachusetts.

Q. In making this statement have you considered that there are several substantial independent gas companies in Massachusetts? A. Yes, I have. Many of the problems I have described are common to all New England companies. However, some of them got an earlier start than these eight companies when natural gas arrived; some may have better

franchise areas; and some may not have the same standards of service.

But in a real sense I feel this type of explanation misses the point. The fact is that every gas company in Massachusetts, big or small, independent or affiliated, is as presently [1555] constituted facing the fight of and for its life. While the future is necessarily dark, due to the competitive price situation, there is no slack or leeway which can be fallen back on by these companies in meeting the competitive challenge.

Q. Mr. Quig, what do you conclude in the light of these competitive situations you have discussed? A. I conclude that the severance of these eight Massachusetts gas companies from the New England Electric System would tear the economy of the companies asunder and throw them perhaps individually to the wolves. It would be far better—in fact I would say it is imperative—to leave them in their present operating relationships, as to effect of severance on these gas companies would be major in the light of the competitive situation in New England today.

I believe it is essential that they have a close-knit integrated, centrally-controlled operation if those economies are to be attained.

Q. Referring back to your summary tabulation, in the previous exhibit and in the light of the discussion we have just had on the competitive situation, will the severance of the gas companies from the NEES System result in substantial losses of economies for these companies? A. Yes. It is Ebasco's considered judgment that the [1556] severance of the gas properties would result in a serious and substantial loss of economies to the affiliated companies of the system. It would be especially harmful to the individual gas companies and it would also have significant impact on the remaining electric companies.

[1557] Q. If the increases in operating expenses and the resulting decreases in gross income which are the result of losses of economies due to severance of the gas companies should eventually necessitate retail rate increases for both gas and electric customers, what would be the effect?

A. As the individual sections of the Respondent's Exhibit 58-A and B indicate, a great many of present customers of the NEES System are "combination" customers, that is, both their gas and electricity is supplied by NEES companies. Therefore, the effect of severance of the gas business would be magnified since the gas and electric companies would each be adversely affected. The effect on such customers might be an increase [1558] in both gas and electric bills.

Q. What would be the relationship between losses of economies and increased rates necessary to offset such losses? A. In respect to needed increases in gross revenues under these conditions the figures I have given only consider the decrease in gross income. Take the 1958 figures for the eight gas companies. To restore the \$957,600 decrease in gross income may well require gross revenue increases by the medium of increasing rates to gas customers of about twice that amount or about two million dollars.

The Federal Income Tax alone takes just about one out of every two additional dollars paid by the customers. So the rate increases necessary to restore the 1958 earning power of the 22 gas and electric companies of NEES would not be the \$1,110,000 decrease in gross income, but almost \$2,200,000.

Mr. Quarles: I have no further questions to ask Mr. Quig at this time. I ask that he be excused.

Mr. Nowlin: I have two or three questions.

Hearing Examiner Ewell: All right, Mr. Nowlin.

Cross-Examination

By Mr. Nowlin:

XQ. Mr. Quig, in the course of your testimony you used the term purchasing gas at a certain load factor. Will you give a definition of load factor as you are using the term?

[1559] A. Yes, Mr. Nowlin. I would like to refer to a definition that I had of load factor in the testimony, if I may, sir.

XQ. If that is already in the testimony— A. It is.

Mr. Quarles: Why don't you give him in a word what it is.

The Witness: I would rather stick to what I have here, if I may, sir.

Mr. Nowlin: I withdraw the question.

By Mr. Nowlin:

XQ. You are also talking about demand charges. What are those based on? Is that the highest take during any month during the year, or how are the demand charges arrived at? A. These gas companies contract for the maximum quantities of gas that they want the pipeline to deliver. The maximum quantity of gas is determined by these companies after giving due effect to the amounts that they may make for themselves by their peak shaving equipment. They are left then with the amount of gas, after peak shaving—with the amount of gas that they want the pipeline company to supply. That is a contractual and almost irrevocable commitment that they make. And under the present tariffs of Tennessee and other pipelines filed with the Federal Power Commission, they pay for that maximum contractual commitment each month of the year.

[1560] XQ. During the winter months their take is much greater than it is during the summer months? A. Yes.

XQ. Isn't the demand charge based on the highest amount they take during the winter months? A. That is right. The gas utilities have a commitment to meet their winter

space heating load. That is the usual design concept. And they have to buy quantities of gas to meet their maximum day requirements, less whatever peak shaving gas they make on that day, which is a normal amount.

XQ. The effect, then, is that the company is paying the winter peak rate for gas during the summer which it doesn't take? A. That is correct.

XQ. Do the companies have to pay that actual demand during each month of the year? A. Yes, sir. Under the last Tennessee rate, made effective in April, it is the highest rate in the country—it is \$6.15 per Mcf for maximum demand. So you just consider that \$73.80 a year has to be paid for that one single Mcf of demand they contract for, whether it is used or not.

XQ. In addition, you have the Commodity rate? A. And then you pay for what the meter shows of the volume of gas that runs through it. What I have mentioned as to the [1561] \$6.15 a month, is just the reservation charge to get the right to use the volume.

XQ. You mentioned the City Gate cost of gas to several companies. Is that cost to each of the companies the same, or do they have different gate rates? A. The cost to each of the companies is the same throughout Zone 6. The rate to each of the companies is the same throughout Zone 6 of the Tennessee Gas Transmission Company. The cost per Mcf depends, of course, upon the nature of the take. Some have a little better utilization than others. They are all within a close range, though.

XQ. That would be true, then, with all of the non-affiliated gas companies in Massachusetts? A. That is true.

XQ. In other words, they all buy their gas at essentially the same City Gate rate? A. That is correct.

XQ. I think early in your testimony you, as I understood it, said that the gross income of the company—that is at least where rates are based on original costs—that the gross

income of the company was a pretty good indication of the rate of return, is that correct? A. Yes, I did say that.

XQ. Have you attempted to apply the gross income to the capitalization of each one of these companies, to determine [1562] what return they are earning on their invested capital? A. No, Mr. Nowlin, I made no such mathematical determination.

XQ. Do you happen to know during 1959, for example, what the individual gas company's rate of return was—that is, what rate of return their gross income represented? A. No, I made no such determination. I did do this. It is a point that we took into consideration. Looking at the history of the rates of these companies, within the past few years, certainly we found no one company that has a rate decrease, that is for sure. And each one of them, beginning in 1956 and 1957, oh, ever since that time have had successive rate increases allowed by the Department of Public Utilities. Now, that told me that at any one time, by virtue of the successive rate increases that they were granted, I am sure that the DPU never considered that they were in an excess return position, whatever statistics the DPU may have had in their mind.

XQ. Isn't that a general proposition with all the gas companies in the past few years? A. More so in the New England area than throughout the country.

XQ. Are you familiar with the Columbia Gas System operations? A. That I am.

[1563] XQ. Haven't they also had numerous rate increases? A. They have. But their rates are materially lower than the rates in New England. And the spread I mentioned—take in the middle part of Ohio today—gas, even with the increases that have come about, it is still so much cheaper than oil that you do not have this close competitive problem that we have in New England.

XQ. Well, now, suppose Tennessee Gas Transmission

files for an increase with the Federal Power Commission by virtue of increased costs in the eastern area. Some of these companies are able to immediately put that rate increase into effect and collect what they call contingent earnings, pending a decision in the case. Do any of these NEES subsidiaries have any contingent earnings on their books, arising by virtue of an increase by Tennessee Gas of the cost of gas? A. I know of no contingent earnings. They have what we call a purchased gas escalation clause, which is only immediately operative with the approval of the Department of Public Utilities, so that the DPU is constantly standing there at the gate to indicate as to whether in their judgment it can be used.

XQ. To give you a little more idea what I am thinking about—some of these State Commissions have an automatic provision whereby the distributing companies can automatically put into effect increased rates to offset increased charges by [1564] the pipeline? A. Yes.

XQ. Some of them don't. Some of them are permitted to collect it under bond, and that is what they call contingent earnings. I was wondering in the event of these New England gas companies, if Tennessee Gas, for example, were to up its rate 20 cents per Mcf, could these gas utility companies in Massachusetts immediately put that higher rate into effect? A. I don't think so, sir.

XQ. They don't have any automatic operating clause? A. The Massachusetts Commission keeps a very strict control over that.

Hearing Examiner Ewell: You mean they would have to go through a complete rate proceeding before they would get the increase?

The Witness: Mr. Examiner, the exact detail of procedure I am not acquainted with.

By Mr. Nowlin:

XQ. Mr. Quig, you mentioned about the possibility of

special heating rate for electric customers, house heating customers? A. Yes.

XQ. Has there been a special rate established in Massachusetts for electric heating customers? [1565] A. By what company?

XQ. By NEES. A. The NEES companies, yes, sir. They have been very quick on that, along with other electric companies in the country, and within the past two months, the Massachusetts Commission has sanctioned a rate aimed at getting electric space heating business.

XQ. Do you know how that rate would compare with the cost of heating by gas? In other words, if you had the same house, put gas in it or electricity in it? A. Yes. Well, of course, everywhere the cost of heating by electricity on a straight Btu basis, and the engineers have to go back to the Btu to get it on an equivalent basis—the cost of heating by electricity is more than the cost of heating by gas, even in the Deep South, where we have very cheap gas. The cost of heating by electricity is more. But as I said in my testimony, the cost is only one of the considerations you have to take into account.

XQ. Do you know what differential would be involved and between the electric heating and the gas heating, in a given house? Would it be 5 per cent or 10 per cent or what? A. Well, not with that degree of preciseness, no. We would have to spell out just exactly the house and the consumption and computations could be made. But even throughout this country [1566] there is a differential between the cost of heating by electricity and the cost of heating by gas. Gas is usually somewhat cheaper.

XQ. I know that is generally true. I was thinking about Massachusetts alone. If we had a given eight-room house, a new house, that you could install electric heating or gas heating—what I am trying to get at is what differential saving would there be as between the gas and the electricity?

A. Sir, I made no such particular computation on a typical house of that size.

Mr. Nowlin: That is all I have at present, Mr. Examiner.

Mr. Quarles: Mr. Examiner, I am going to wish to recall Mr. Dalbeck, Mr. Hansen, and Mr. Webster, each of them for only ten or fifteen minutes of questioning. Would it be appropriate to have a very brief recess at this point?

Hearing Examiner Ewell: Yes, I think we should.

(At this point a short recess was taken.)

[1567] Hearing Examiner Ewell: Let's resume, please, gentlemen.

Mr. Quarles: I would like to recall Mr. Dalbeck, who has previously testified.

Whereupon,

HAROLD L. DALBECK

was recalled as a witness and, having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Quarles:

Q. Mr. Dalbeck, I show you eight sets of sheets which appear to be rate schedules, one set for each of the eight gas companies within the NEES system. Will you please describe them? A. These eight sets of sheets constitute the effective rate schedule as on file with the Massachusetts DPU, one set for each of the eight gas companies in the NEES system.

In general there are three types of rates for each company; the basic domestic rate K, the domestic house heating rate L, and the general rate M for all commercial and industrial uses.

Then there are terms and conditions which apply to the sale of gas by each of the companies. In Lynn Gas Co.

there are comparable rates; a domestic rate J, a commercial and industrial rate M, and a commercial building heating rate K.

[1568] Northampton Gas Light Company in addition to its K, L, and M rates, has an industrial gas rate N for larger industrial customers. North Shore Gas Co. has two rate zones. The main rate zone consists of the cities of Salem, Beverly, and Peabody, and the town of Danvers where its K, L, and M rates apply; it has similar K, L, and M rates with the designation 2 added which apply in the city of Gloucester and the town of Rockport. In addition North Shore Gas Co. has a restaurant rate "O" in its first zone and 0-2 in the Gloucester zone.

Q. Why does Northampton have an N rate for large industrial customers where other companies do not?

A. This goes back to the competitive situation I have described in earlier parts of my testimony. Northampton was faced with a situation where they would lose one of their largest customers if they did not make a reduction. The solution we found was to file a new large industrial rate available only to customers who would guarantee a very high monthly consumption in exchange for a lower tail end of the rate.

Q. Mr. Dalbeck, I notice that North Shore Gas Co. has a restaurant rate which is different from any of the other companies. Why is this? A. This again has its origin in a competitive situation. We had a few restaurants which we were in danger of losing [1569] on our general rate M and a rate was designed that would give them enough reduction to hold them, but in return these few customers agreed to use not less than \$500 worth of gas a year and to use gas for all their hot water and space heating requirements.

Q. Are all of the K rates for example the same in each company? A. No. None of our corresponding rates are

the same in each company, with the exception that the basic tail end step of the K rate, the L rate, and the M rate in all companies except Lynn are the same. The earlier blocks of the K and L rates are the same in size but different in price due to the differences in territory which reflects both market and plant investment required, the earlier history of the companies and their relative earnings. In addition they are further varied by the application of the purchased gas adjustment clause in the rates which has had a slightly different effect in each company. As to Lynn Gas Company, its rates are the rates that were in effect at the time of acquisition. There has been no change in Lynn's rates with the exception of the recent escalation under its purchased gas price adjustment clause.

Q. Mr. Dalbeck, are the rates of these companies going to be made uniform? [1570] A. That is an objective that we always have in mind. However, it is one that is extremely difficult to accomplish and while we are making studies and attempting to get them more nearly uniform, and particularly simplified, I do not expect that we will be able to accomplish it for some time to come.

Q. Are these sets of gas rates complete and accurate duplicates of the rate schedules of the eight NEES gas companies as on file with the Massachusetts Department of Public Utilities? A. They are.

Mr. Quarles: I would offer them as Respondent's Exhibits 95 for Central Massachusetts Gas Company, 96 for Lawrence Gas, 97 for Lynn Gas, 98 for Mystic Valley Gas Company, 99 for North Hampton Gas Light Company, 100 for North Shore Gas Company, 101 for Norwood Gas Company, and 102 for Wachusett Gas Company.

Mr. Nowlin: No objection.

(Respondent's Exhibits Nos. 95, 96, 97, 98, 99, 100, 101 and 102 were received in evidence.)

By Mr. Quarles:

Q. Mr. Dalbeck, are you familiar with Respondent's offered Exhibit entitled "New England Electric System—[1571] Gas Severance Study—Supplemental Report—Combined Operation of Eight Gas Companies"? A. Yes, indeed.

Q. Was this Supplemental Report prepared by Ebasco at the request of NEES management? A. Yes.

Q. What was the purpose of the further study to which this report relates? A. As has already been brought out in the testimony, when we started our severance studies and retained Ebasco to help us we proceeded on the basis that all calculations and estimates should be prepared on the separate operation of the eight individual gas companies if they were removed from the NEES System.

We realized that any assumption and analysis of the effect of severance of the gas from the electric business would have to start with a study of the effect at the local level. Furthermore, the necessary element in considering them as a single integrated utility system is their common ownership by NEES and their joint operation by its integrated organization.

By hypothesis, in the event of separation, this unifying element would disappear and each of the gas companies might be on its own. We and Ebasco, accordingly, studied the effect of severance on an independent company basis and came up with [1572] the results which we have testified to.

However, we also realized that conceivably two or more of the gas companies might come under common ownership and be managed and operated jointly and that the Commission might be interested in knowing how this would affect the operating results and the loss of economies. Not being able to guess how many or which of the companies might come together in this way, we decided to study the maximum possible combination—which presumably would

represent the maximum saving of economies— namely, a combination of all eight of the companies.

So we asked Ebasco in conjunction with our own people to review the work they had done and re-examine the situation on the assumption that the eight gas companies would be put together under some form of organization or operating structure with at least sufficient common ownership to procure the best insurance rates and other advantages that might be available.

Since we had no basis whatever for specifying the type of organization, we decided not to include as an element of expense any allowance for the costs of financing and maintaining the unifying structure itself, but merely to determine which of the losses resulting from segregation would be occasioned by separating the gas businesses from the electric and which would be occasioned by separating the gas businesses from each other and operating them singly. These further studies were made much as the previous ones with the Ebasco personnel and our [1573] own people collaborating in collecting and tabulating data but each group satisfying itself in all matters where judgment or opinion was required.

Q. Did you participate in the preparation of this Supplemental Report? A. Yes, I did. This Report, as in the case of the independent gas company reports, was the result of the cooperation and combined effort of many people.

Furthermore, an understanding of the Gas Division and the local organizations was essential to this report and so I worked closely with the Ebasco group and our own people to help develop an estimate of the capabilities of the Gas Division and what would need to be added to the present staff for independent operation and how this would affect the local organization.

My own experience in setting up a similar organization many years ago was most useful in this work.

Q. Do you consider the conclusions embodied in this report to be sound and reasonable? A. I certainly do.

Q. Does this Report envision an organization which, in your opinion, will be as economical as possible—given the assumption of severance from NEES? A. Yes. Of course many variations are possible in the method of organizing a system such as this, but I do not [1574] believe any variations I can think of would result in substantial savings over what Ebasco has proposed in its report.

Q. What kind of variations do you have in mind?

A. For example, in this report Ebasco has assumed that billing of customers' accounts would be localized within each company. It is conceivable that in an organization such as is anticipated here billing might be centralized to some degree. But this decision, in my opinion, is really not important cost-wise.

I have in the past made many studies of customer accounting procedures and in no instance have I ever found that there were real economies in centralization of billing. I think the best evidence of that is a comparison of companies with centralized billing as against billing in each company. One group in New England does bill at one location for all of their companies and customer accounting costs in its companies are higher than ours. So you may argue on form, but the substance, which is cost, is not affected.

Q. In your opinion, is the Executive and Administrative group projected in the Supplemental Report sound? A. Very definitely.

To substantiate this I would start with myself as President of the existing companies. I am sure that the load I am carrying in directing the operations of these companies, even with the help of NEES, is about all a man could possibly [1575] do. And if you add to these present responsibilities the task of directing the financial policies, the

accounting, the legal aspects of the business, insurance, safety, medical, rates, public relations and all the other functions' that the NEES System performs for us it would be physically impossible for a President to do so without substantial assistance. And, as Ebasco has shown in their report, this assistance can only come from increased executive and administrative personnel.

Accordingly, this gas group would certainly require a high grade Executive Vice President to take over some of the burden assumed in this new organization by the President. I might also inject here, that in other gas companies that I know of, even smaller in size, this is a position that is a part of their organization. Actually, this is the only management executive that is superimposed over our existing organization. The report continues the three Assistants to the President as Vice Presidents in the new gas operations and in each case they would continue to have the same general area of responsibility as at present, although each would have added burdens.

Take the new position of Sales Manager. Actually, this is an extension of the duties of the Sales Promotion Manager in our existing organization.

You will note, however, that the Sales Manager reports [1576] to the Vice President (Marketing and Supply) while the present Sales Promotion Manager reports directly to me. This change was made because we all realized that the President could not possibly devote the time to sales which I do now.

So the responsibility of the sales program would be vested in this Vice President with the Sales Manager being responsible for all areas of sales and sales promotions.

This, in my opinion, is a must and the only way that a continuation of our present sales effort could be maintained. [1577] Q. What Gas Division functions would continue under this projection? A. Everything that we now do con-

tinues practically unchanged, particularly in the field of engineering and local management, production, utilization and sales. With the organization set up as it is, operating from a central gas organization would not result in any changes at the local level except, and this is a big exception, accounting.

Q. Will you please comment on some of the personnel added to this central organization who are not now in the Gas Division? A. I have testified in this proceeding of the many areas where the NEES System assists us in the operation of the gas companies. You will recall the many instances that I referred to the Corporate Department. There has been included in the new organization a General Counsel who would advise and assist on Federal and State regulatory matters, property and franchise problems, rate hearings, security issues, corporate affairs, labor matters, legislative affairs, contracts of all kinds, suits, dealing with municipal and state authorities and the general day-to-day legal work of an operation as complex as ours. If a General Counsel were not included in this new organization, I am sure that the aggregate costs of such services would be greater than shown.

I have also mentioned in my testimony, and others have too, [1578] the work of the NEPSCO Safety Department. I personally feel very keenly about the effective work of this department and the resulting excellent record in our companies and I would not regard it as an economy if these gas operations take a backward step on safety. Therefore, a Safety Director and staff are an absolute essential to a continuation of our present effective safety program even though this staff probably could not continue the present complete coverage of the NEES program, with its much larger staff.

The Public and Personnel Relations group of five people included in the pro forma central organization would handle

many of the functions now provided by the Service Company. All gas and electric companies do provide some type of employee assistance in the area of medical help and this would be one of the functions of this department—labor relations, which is a continuing problem in dealing with employees and requires a tremendous amount of attention, would be another.

Communications with employees is so important that some sort of employee publication would be desirable even though these companies could not afford a magazine such as CONTACT.

Other functions of this department now provided at the System level would be public relations in dealing with public authorities, news releases, such area development [1579] as might be justified, personnel histories of employees, employee training and a vast number of other duties so necessary in the maintenance of good employee and public relations. This group is certainly an essential and integral part of any organization.

It is also obvious that if the gas companies are separated some sort of centralized purchasing will be desirable even though all of the benefits now available through the Service Company may not be possible. However, the utmost economy in a separate gas operation would be achieved through this purchasing group, and I am sure, based upon my past experience, that the projected estimate of five employees is conservative.

Q. Will you comment on the Treasury and Accounting organization? A. Certainly. To absorb in this gas group all of the services now performed by the Treasurer of NEES and his staff for the gas companies would require as a minimum the staff projected and I am sure that this new Treasurer could not possibly bring to these gas operations the knowledge, the contacts or the background that Mr. Hanson and his staff have gained through their years of

experience. The comments that I made on customer billing and accounting would also apply to this section of the report. Here again it is not important whether general accounting is set [1580] up on a centralized or decentralized basis because our experience and studies show that the net cost would come out about the same. It is not at all clear that greater economies could be achieved by further centralization. I have heard managers cry out loudly in protest when general accounting was moved away from their offices and records, reports and information was not readily available to them. Real money can be lost through lack of information.

Q. Will you comment on items shown under Other Expenses? A. None of these amount to a great deal in dollars except insurance. I was particularly interested in the effect of the combination operation on insurance costs over separate companies. The reduction as compared with separate operations is material but still a long way from our present costs. I must say that as President of the gas companies I feel a lot more comfortable under the present System coverage than the coverage that might be available under the combined gas group.

Q. Do you consider the combined gas operations as shown in this Supplemental Report a sound plan? A. It makes more sense than separate companies. However, it is very definitely by far second best to our present situation, and it cannot be considered sound when it is going to cost these gas companies about \$1,100,000 [1581] more in operating costs than at present. It is clear from what has been said in this hearing that our pipeline costs of gas are continuously increasing and that we are approaching a position where we are pricing ourselves at about the limit for the house heating market. An increase of over \$1,000,000 under separate operation could very well tip the scales against us and I, therefore, would be seriously concerned about any

plan, even this one, that forces us out of the New England Electric System and into increased operating costs. It should also be pointed out that the operation of these companies apart from the System will certainly lose many of the benefits of System operation which this combined gas operation just couldn't afford to have if operating on their own in any manner.

Q. Mr. Dalbeck, will you please give us your opinion as to the significance to the gas companies of the possibility of severance? A. Yes, I will. I have brought into my testimony a background of many years in the gas business. I have operated under many varying conditions in these years in an independent gas company and with two holding company systems. I have also given a great deal of thought to the projected gas companies, both as separated gas companies and as a group operation. I have spent more hours and time in study, analysis and preparation for the problems of this proceeding [1582] than I care to think about and I have sought to present the picture of our gas companies as a part of the New England Electric System from an objective point of view. The testimony that I and others have presented in this case brings into focus the practicality, the economy and efficiency and, most satisfying from my point of view as executive head of these gas companies, the complete independence of operation that we enjoy in the Gas Division in those most important areas that can result in the maximum development of the gas business.

The independence of action and concentration of effort in building the gas companies to their present state of earnings has been possible to a very large degree by the fact that the many functions performed by the NEES personnel which I have outlined in my testimony not only relieves those of us in the Gas Division of much concern for those areas but gives to these companies the benefit of

a broad knowledge developed through years of experience in the gas and electric business. This all leads me to one conclusion and that is that the interests of the public, the customer, the employees and the investor are best served by these companies remaining a part of the New England Electric System. In my opinion, severance of these gas companies from NEES, whether on an individual company or combined basis, would result in a substantial loss of economies which could have most serious consequences.

[1583] Mr. Quarles: Mr. Hearing Officer, I have no further questions to ask of Mr. Dalbeck, and unless—

Hearing Examiner Ewell: Mr. Nowlin, do you have any?

Mr. Nowlin: I have two or three.

Cross-Examination

By Mr. Nowlin:

XQ. Mr. Dalbeck, has the State Commission of Massachusetts fixed a rate of return which is generally applicable to the gas companies operating in the state? A. No, sir.

XQ. Do you know what rate of return any of your system companies have been allowed in any recent rate case? A. No, I do not.

XQ. In other words, there is no such thing as the State Commission having generally fixed a rate of return of six and a quarter per cent for gas companies, as is done by the Power Commission? A. No, sir.

XQ. Do you know how your consumer rates—that is, your distribution rates compare with those of the twelve non-affiliated companies that have been mentioned in this record before? A. Yes. Our rates—our eight companies are in the medium range. In other words, we are not the lowest in the [1584] state, and neither are we the highest.

XQ. Now, for example, take one of your companies, where you serve part of an area, and a non-affiliated company serves across the street, let us say. Do you have any

of those instances in Massachusetts? A. Not really. We may have a customer down the street in an area where there might be half a dozen customers.

XQ. Do you have any abutting areas where you can make a comparison of the rates charged by your company with those of non-affiliated companies? A. No.

XQ. What I had in mind is the situation in Pittsburgh, where three different gas companies operate in the city, and in some instances they are across the street from each other? A. We have no situations such as that in Massachusetts. In other words, each town is a franchised area that is allotted to a particular gas company, and there is no conflict.

XQ. Have you made any computation of the return on the invested capital that is being realized on each one of the eight gas companies? A. Well, I haven't a figure on each one of the eight gas companies. I can give you a figure for the combined eight gas companies, for the year 1959.

XQ. All right. A. About six and a quarter per cent, and [1585] for the year 1960, we estimate about 5 per cent.

XQ. Why the reduction? A. The reduction is due to what we brought out in our testimony, the loss of the peak shaving rate from Tennessee which is going to cost us about half a million dollars, increased manufacture for peak shaving, plus wages increases effective January 1, 1960.

XQ. Will that mean you will have to apply for rate increases? A. That is a very good point.

XQ. Now, I asked Mr. Quig—do you have any situations in the eight gas companies where you have developed contingent earnings by virtue of Tennessee Gas, for example, raising its wholesale rate to the companies? A. No, we have no such situation.

XQ. What happens if the Tennessee Gas Company should raise its rate, say, 1 cent per Mcf. Do you pass that on im-

mediately to your customers of the eight companies? A. Not immediately. But if you will refer to the second page of our rate schedule, and I think they are all the same—our schedule provides for a purchased gas price adjustment, whereby with the approval of the Department of Public Utilities, when Tennessee Gas Transmission increases its rate, we can make a corresponding increase to the customer. That is with the approval of the Department. That [1586] also would work in reverse. In other words, if there was a refund by Tennessee, then we would have to, under this price adjustment clause, give that back to the customer in the same manner, so that there are none of these contingent refunds.

XQ. Is that procedure established by the State Commission more or less automatically, or do you have to go through a formal hearing? A. We don't go through a formal hearing. We never have gone through a formal hearing. You may recall in my testimony that I mentioned the fact that we went up and had a conference with the Department of Public Utilities in connection with our eight gas companies, where we applied to them for the approval of escalate our rates coincident with the increase by Tennessee Gas and after discussion with them, and presenting to them the facts of the situation, they did approve the increases.

XQ. Now, how are the eight gas companies financed—the capital requirements? A. Completely through NEES system, and Mr. Hanson.

XQ. Do any of them have debt in the hands of the public? A. Oh, yes.

XQ. Do all of them? A. No, not all. Mystic Valley Gas has bonds out, Lawrence Gas has bonds out, North Shore Gas has bonds out. [1587] I guess that is it.

XQ. Well, some of the others have bank loans, is that right? A. Others are short-term loans.

XQ. Then could we assume that the financial policy is to finance the debt requirements of the gas companies through the sale of debt to the public, rather than to the parent company? A. Well, I think that is something that Mr. Hanson probably can answer better than I.

XQ. Mr. Dalbeck, again directing your attention to a question which I asked a while ago—either I didn't make it clear, or you misunderstood it—according to the maps in the record, I notice that Worcester Gas Light Company serves properties abutting those of Wachusett Gas Company? A. Yes.

XQ. And that Fitchburg Gas and Electric Company also abuts that area?

XQ. Can you tell me how the rates of those two non-affiliated companies compare with the rates of Wachusett? A. Not specifically, but I would say that the rates of Worcester Gas Light Company are comparable with the rates of our companies, particularly the house heating customers.

XQ. Now, as I understand it, all of the gas companies in Massachusetts, non-affiliated and affiliated in the NEES [1588] system, purchase their gas from Tennessee at approximately the same cost, isn't that correct? A. All but one of our companies purchase all of their gas from Tennessee. Norwood Gas purchases from Algonquin Gas Transmission.

XQ. Do these non-affiliated companies purchase their gas from Tennessee at the same price your companies do?

A. Yes, sir. The price is the rate by Tennessee for the New England zone, and we all buy at the same price.

XQ. I see. Are all of the rates as far as you know of the non-affiliated and unaffiliated companies two-part rates?

A. Yes, it is a filed tariff with the Federal Power Commission. And it is the same rate for all Tennessee customers in New England, both as to demand charge and commodity charge.

Mr. Nowlin: That is all I have, Mr. Examiner, at this time.

Mr. Quarles: Then I would ask that he be excused, subject to recall.

Hearing Examiner Ewell: The witness is excused in accordance with counsel's statement.

(Witness temporarily excused.)

[1589] Mr. Dunn: Your Honor, I would like to recall Mr. Hanson at this time.

Hearing Examiner Ewell: All right.

Whereupon,

HARRY HANSON

was recalled as a witness, and having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Dunn:

Q. Mr. Hanson, have you reviewed the Ebasco Supplemental Report on gas severance, offered as Respondent's Exhibit 91? A. Yes, I have.

Q. What was the purpose of the study to which this Supplemental Report relates? A. The purpose of the study was to show the operational savings which could be realized by combination of the eight gas subsidiaries of NEES upon their severance from the NEES system as compared to the costs of operating each of the eight gas companies on an independent basis. However, it leaves unanswered the questions as to financing, tax matters and form of combined operations.

Q. The Supplemental Report shows that there would be only limited savings in the treasury and accounting areas upon combination of the eight independent gas company operations. [1590] Are you of the same opinion? A. Yes, I am. As set forth in that report, there could be some

centralization of general accounting upon combination of the eight gas companies upon severance from the NEES System, but in other accounting areas, I do not believe that centralization would result in any material savings, under existing conditions. The savings in stores accounting, of course, comes from centralization of the purchasing function.

Q. The Supplemental Report states that \$127,000 would be saved in costs of insurance as a result of the eight independent gas companies combining in some form which presupposes 51 per cent stock ownership of the companies by one interest. Are you in accord? A. Yes. This is brought out clearly in the Respondent's Exhibit 92, which has been introduced through Mr. Pearson. Although the increased premiums aggregating over \$280,000 would be reduced by some \$127,000, there is still a substantial increase in premium cost as compared to the premium cost for the eight gas companies as part of the NEES system.

Q. Do the Ebasco Reports cover the financing of the gas companies upon severance? A. No. Their financing is not covered by Ebasco on either an independent company or a combined basis.

Q. Would there be savings in the cost of financing the eight gas companies on a combined basis as compared to [1591] financing the eight independent gas companies following severance from the NEES System? A. Your question is a difficult one in view of the many possibilities as to the form of the combining organization which might be used.

First I'd like to state that as compared to the present situation as part of the NEES System, the eight gas companies on a separate company basis would not realize any savings in financing. In fact, I would expect their financing costs would be higher. Some of the eight independent companies would be quite small and little known in the

financial world. If they were to combine operations through operating or service contracts, there would be little if any savings in financing. If the combining force were to be, say, 51 per cent or more stock ownership by some individual or company, there might be some savings if short term debt for all eight companies were arranged by one person, but in general long-term debt financing would entail eight relatively small and unknown companies seeking funds in the money market.

The use of a holding company as the combining vehicle might or might not produce any savings in financing. It depends in part on the financial strength of the holding company and in part on whether or not the holding company would have debt in its capital structure as well as continuing the present debt in the capital structures of the NEES gas companies, or [1592] whether or not the holding company might replace the debt in the gas companies with debt in the holding company only.

Other possibilities would be enumerated, but I think this is enough to indicate the uncertainties involved in the situation so that one is unable to state with any certainty the amount of savings which might be realized in the financing of the eight gas companies on a combined basis.

In this connection, we should also consider the costs of refinancing existing debt, upon any merger or other combination of the eight independent gas companies or upon substitution of holding company debt for debt in the subsidiaries. In addition to the expenses of refinancing, including the payment of call premiums, there probably would be an increase in the cost of money, in view of the higher interest rates which prevail.

Q. If a holding company were used as the combining form for the gas companies upon severance, would there be consolidated tax savings therefrom which the gas subsidiaries would enjoy? A. This question concerns an

"iffy" area. First of all, before a group of companies are entitled to participate in a consolidated tax return, there must be 80 percent voting stock control by the parent company of each company participating in the return. Even if such were the case, there still would not be any material consolidated tax savings to be shared by [1593] the subsidiaries unless substantial expenses were to be incurred by the parent company itself. Presumably this would be in the form of interest on debt. However, if you will refer to Respondent's Exhibit 85 which was introduced through me, earlier in this proceeding, you will note that the eight gas companies on a consolidated basis already have 46 percent debt in their capital structure. In such a situation, the holding company, if it were subject to this Commission under the Holding Company Act, would have to get approval for the issuance of any debt by it. Rather than give any dollar amounts of consolidated tax savings which the subsidiaries might enjoy from a holding company upon severance from the NEES System, I might put it this way, namely, that for every dollar of expense and interest incurred by the holding company, taxes would be reduced by about 50 cents and probably a portion would be shared by the subsidiaries.

The amount of such savings to be shared by the subsidiaries would depend upon the relation of the holding company's taxable net income to the combined taxable net incomes of the holding company and the gas subsidiaries.

Q. Mr. Hanson, if following separation from NEES, the eight independent gas companies were to combine, what would be the tax considerations other than consolidated tax matters? A. As shown in the Ebasco Supplemental Report upon combinations there would be a decrease in operating expenses. [1594] This would mean less deductions in computing taxable income and, consequently, higher income taxes. In addition, depending on the form of organi-

zation used, there might be a further increase in taxes. Under the Federal income tax laws, each corporation is entitled to a \$5,500 tax exemption, that is, no surtax on the first \$25,000 of taxable net income. If the eight independent gas companies were to combine into one company, or if they were to file a consolidated tax return, only one \$5,500 tax exemption would be available and about \$38,500 would be lost.

Q. Are you in general agreement with the conclusion set forth in the Ebasco Supplemental Report on Gas Severance and particularly with their summary of changes in operating costs? A. I am.

Q. In your opinion would it be realistic for the summary of changes in operating costs to be followed by a table showing the effect of separation on a gross or net income statement for the combined gas operation? A. Without the establishment of some ground rules, I do not feel it would be realistic to present such a table. This, again, gets into a nebulous area. You don't have any actual income statement for the combined gas operation from which to start. It might be possible to project some such statement, but you would first have to make some assumptions such as [1595] whether the joint operation were part of one corporation or were a part of a holding company system or otherwise. In the absence of some such assumption, you don't know the amounts of revenues or expenses with which you are dealing, you don't know the costs of servicing your capital structure, you don't know the basis on which you should compute taxes, et cetera.

Q. Mr. Hanson, assuming some form of combined operation, are you of the opinion that the Supplemental Report on Gas Severance sets forth an amount of savings in the maximum range which might be realized under present conditions by the eight independent gas companies upon combination? A. I am.

Q. The Supplemental Report reflects the increase in operating costs which the eight gas companies on a combined basis would incur as compared to their operating costs as part of the NEES System. This was arrived at by first developing the operating costs for each of the eight gas companies on an independent basis and then by reducing such costs by the economies of the combination of the gas operations of the eight companies. Would the result have been the same if a form of combined operation had been assumed in the first instance and adjustments made in the present operating costs to reflect the combination set up independent of the NEES system? [1596] A. In my opinion, the result would have been substantially the same.

Mr. Dunn: We have nothing further of this witness.

Hearing Examiner Ewell: Do you have any questions?

Mr. Nowlin: One or two.

Cross-Examination

By Mr. Nowlin:

XQ. Assuming the combination of the eight gas companies, either in the form of a merged company or in the form of being under the control of a holding company, have you made any comparisons of the estimated cost of such assumed company raising capital, as compared with the present costs of the individual companies? A. Using—

XQ. Assuming either a merger of all the companies, or assuming they are owned by a holding company, wholly-owned, that is all the common stock. And then relate that to any other—relate that to the present cost of raising capital. A. By the second you mean the financing by the holding company?

XQ. No, sir, as you are now doing. If that question is indefinite, I will start over.

Mr. Hanson, as I understand it, the eight subsidiaries of NEES finance themselves through the medium of issuing

debt [1597] securities to the public, and common stock to the parent NEES, is that correct? A. No, it is not. The only companies of the eight that have debt securities owned by the public are Mystic Valley Gas Company, North Shore Gas Company, and Lawrence Gas Company.

XQ. They have bank loans? A. Some of the companies do have short term notes payable to banks.

XQ. Do any of the companies have all the debt and common stock owned by NEES? A. Some do.

XQ. Which ones? Would you identify those? A. Yes. They are all set forth in the exhibit.

XQ. All right, sir. A. It has been presented.

XQ. All right, sir.

What tax advantages do the gas companies get from the ability to consolidate with the NEES System, that they would not get if they were a separate merged company? A. They would completely lose the consolidated Federal income tax savings which they now enjoy, and which as I indicated in my previous testimony amounted to from \$150,000 to \$200,000 a year. If they combined into one operating company, they would completely lose that tax saving.

[1598] XQ. Now, if they were under the control of an independent holding company, what tax advantages would they lose in that circumstance as compared with the present situation under NEES? A. As I tried to indicate, before anything of that kind could be answered, there would have to be ground rules set up as to the form of the holding company, as to what its capital structure was, as to what the consolidated capital structure was, what rates of interest would attach to the securities that might be issued by the holding company, and also what expenses the holding company might have.

XQ. Well, does that mean, then, that the gas companies are obtaining tax benefits by being in the NEES System,

beyond which it contributes to the NEES System? A. Definitely.

XQ. Well, isn't that in effect, then, a subsidization of the gas companies at the expense of the electric consumers? A. No, it is not, because the electric companies also benefit in consolidating tax savings. As I indicated previously in my testimony, the recurring tax benefit to all of the operating companies in the NEES System, both gas and electric, is primarily due to the expenses and the interest charges of NEES itself.

Mr. Nowlin: That is all I have at the present time, [1599]
Mr. Examiner.

Hearing Examiner Ewell: The witness is excused under the same general conditions.

(Witness temporarily excused.)

Mr. Quarles: Next may I recall Mr. Webster.

Whereupon,

WILLIAM WEBSTER

was recalled as a witness, and having been previously duly sworn, was examined and testified further as follows:

Direct Examination

By Mr. Quarles:

Q. Mr. Webster, you have heard, have you not, substantially all of the testimony which has been given in this proceeding by the witnesses representing NEES and Ebasco? A. Yes, I have.

Q. Have you examined the Ebasco Report marked for identification as Respondents' Exhibit 58? A. Yes, I have.

Q. Would you please give us your conclusions with respect to this report and the effect of severance generally?

A. In considering the effect of severance of the gas companies, I think it is helpful to consider the losses of econo-

mies and the general impact of severance on the gas companies under three different headings. First, the specific dollar losses with respect to which it is possible to ascertain [1600] the amounts. Second, dollar losses which we know would result, but the amount of which we do not feel can be ascertained with sufficient certainty to warrant projecting a specific figure. And third, losses of a more intangible nature, which, while they can ultimately be expected to have an adverse effect upon the financial condition and operations of the companies, are more in the nature of loss of depth and flexibility, deterioration in services, and general loss of strength, and which represent a serious factor in this case.

Q. Will you first give us your views as to the specific losses of economies as shown in the principal Ebasco Report? A. From my review of this Report and my general familiarity with the study which is embodied there, I am thoroughly satisfied that the loss of economies which are projected in that report would actually take place in the event that the gas properties were severed from the System and required to operate on an independent basis.

In fact, as I have studied the Report and heard the witnesses who have testified during these hearings, against the background of my own general knowledge and experience with the System, I feel certain that the losses projected in the Ebasco Report represent a generally quite conservative estimate of the direct dollar effect of severance.

Q. Will you tell us now, Mr. Webster, about the dollar [1601] losses which you have described as less clearly determinable? A. I believe these would be very substantial.

For example, the figures in the Ebasco Report do not include the actual cost of effecting the severance of the gas companies from the System; that is, the operation of separating them, as distinguished from resulting losses. The gas and electric operations are in many respects

closely interwoven. It is obvious that if severance were to take place there would be a considerable period of disruption of the business. Furthermore, the physical separation of gas and electric operations and setting up systems and procedures for future operation would be expensive and this expense would presumably be a charge against future operations of both gas and electric companies, although it would obviously fall more heavily on the gas side.

Turning from these initial expenses to the particular functions which are now performed for the gas companies by the NEES System, it is obvious that financial losses would exceed those shown in the Report.

To take just one example, we can be certain that the 8 independent gas companies would have to pay more for their supplies and equipment if they did not have the advantages of joint large quantity purchasing as part of the broad base which combination with the electric companies provide.

[1602] This in many ways is comparable to the increased cost of insurance but harder to pin down with accurate figures. This same sort of thing repeats itself in many areas of System activity. Wherever experts, specialized services and the benefits of the efficiency and bargaining power of a larger unit are no longer available operating expenses will go up.

Q. Mr. Webster, what are the intangible losses you have referred to? A. A great deal has already been said about this by other witnesses and I will simply mention briefly the principal sort of things which I mean. One clear loss to the gas companies and the electric companies which would fall directly on the consumers is the inconvenience to customers of having to almost double their contacts with meter readers, billing offices and the like.

For the gas companies themselves the loss of the flexibility, depth and specialization which their participation

in the System gives them means that they would not be able to handle special problems as well as they can now.

It is true in our business, as in almost any business, that a job can be done barely adequately or it can be done with excellence. I believe that the availability of Service Company experts now permits the gas companies to enjoy the latter. Upon separate operation there would be many areas where they would of necessity have to fall back on the [1603] standard of bare adequacy.

Another type of intangible loss—although this is one which I believe may well have a fairly immediate dollar impact—is in connection with financing.

As a practical matter, being part of the System enables the gas companies to finance on a more economical basis, particularly in times such as these when money is in short supply.

Q. Would you give us your conclusions with respect to the Ebasco Supplemental Report marked for identification as Respondents' Exhibit 91? A. As Mr. Dalbeck has stated, the purpose of this further study was to isolate those economies which might be salvaged in the event some way could be found to keep the gas companies together after severance. We recognize that this is a pretty hypothetical thing because at this point there is no basis for any particular assumption as to how they might be kept together; nor even for the assumption that there is a way in which they could be kept together. Nonetheless, we thought it would be useful to have a study on the assumption that all eight of the gas companies could be operated together so that we would have a firm basis for determining which of the losses of economies resulting from gas severance on an independent basis result from separating the gas companies from the rest of the NEES System and which result from separating the gas companies from each other. The supplemental [1604] study

establishes that almost 80 per cent of the total loss of economies stems from the separation of gas from electric. I do not find this conclusion the least surprising and my own knowledge of our System is consistent with it.

The heart of the economies which participation in the NEES System makes available to the gas companies is in the interweaving of the gas and electric operations in the field and the unique opportunity for savings and service which the availability of NEPSCO provides them.

Regardless of how the gas companies are set up after severance, depriving them of these benefits would severely impair their prospects.

Q. Mr. Webster, in your opinion could the gas companies be operated as one or more independent systems without the loss of substantial economies which can be secured by their retention in the NEES system? [1605] A. I am sure they cannot. The Ebasco study and all of the facts which have been brought out in the testimony in this case—and, I think, plain common sense—indicate that the economies lost by the gas companies' removal from the System would be both substantial and serious, whether or not some way could be found to hold them together after severance. "Substantial" must mean substantial in relation to the total situation in which the companies are. The critical economic position of these companies when viewed against the competitive situation in which they find themselves is such that it would simply be folly to deprive them of the economies which they now obtain as part of the NEES System. The economic health of these companies would certainly be seriously impaired by severance, and it is not difficult to conceive of circumstances under which their very existence would be threatened if these economies were lost.

Q. Is it clear to you that the continued combination of the gas properties under NEES control is not so large as

to impair the advantages of localized management, efficient operation and effectiveness of regulation? A. It is completely clear. Taking these tests at one time, our gas companies and our electric companies are set up in such a way as to be responsive to local needs, and to obtain the benefits of local management while still retaining the advantages which centralization and joint [1606] operations provide. I would say we achieve an unusually high degree of localized management on those issues where such localization is important, and the size of the eight gas companies taken together and of the NEES System as a whole does not in the slightest impair the advantages of localized management.

Q. How about efficiency of operation? A. I do not think I have to elaborate on this. What has been said shows that we have those functions which can be best performed on a local basis or best performed on a basis of separating gas from electric, performed on such basis, and that we combine operations where such combination is advantageous. In my opinion, neither the gas companies taken together, nor our System as a whole, is so large as to impair efficient operation—on the contrary, our size makes for efficiency.

Q. How about effectiveness of regulation? A. Back in 1957 in the earlier phase of this proceeding, I described in some detail the regulation of our company by various regulatory authorities, and in the current hearings the Chairman of the Massachusetts Department of Public Utilities and Mr. Dalbeck have testified in regard to regulation of our gas companies. It is my opinion that by being part of the NEES System and obtaining the benefits which that brings in terms of specialized knowledge and service, [1607] these gas companies, as well as our other companies, are more amenable to effective regulation than they would be if they were forced to go off on their own. In my opinion, the over-all size of the gas companies taken to-

gether, and of the System as a whole, does not impair the effectiveness of regulation. It seems to me that the testimony of the Chairman of the Massachusetts Department of Public Utilities pretty well disposes of this question, if there is one.

Q. Mr. Webster, will you give us your general conclusions as to the significance of this proceeding and what the impact of severance would be on the NEES gas companies?

A. In short, severance would destroy the benefits of years of reaching for the best possible way to operate the gas companies as part of the System. As is amply clear from the testimony which has been given here, this has not been an easy process nor has it taken place overnight. It is a process which is still going on. What has been done to date represents the result of years of careful analysis and continuing efforts to make improvements and achieve economies where this is possible.

I am sufficiently familiar with the background of the Public Utility Holding Company Act to be certain that it was never intended that the destructive effects of severance would be visited upon a group of companies unless their being together was detrimental to consumers or investors, or the [1608] public generally. There is not the slightest evidence either in the record or in common sense that the combination of our gas and electric utilities is in any way detrimental or that there will be any material benefit to be derived from separation which would offset its disastrous effects. None of the evils which the framers of the Act were seeking to eradicate exist in our System. Only the gas companies' competitors would be helped by severance. Our Board of Directors and top management would not have authorized the expenditure of so much money and energy in preparing our case and opposing separation if we did not sincerely believe this.

Q. Thank you, Mr. Webster.

[1609] Mr. Quarles: Mr. Hearing Officer, I have no further questions to ask of this witness and no further testimony to offer at this time. I have rather expected at this time to be able to say that our case was in, subject to anything that might be developed on cross-examination, but in view of the fact that rulings have been reserved on several important exhibits, obviously I could not make that statement in this posture of the case.

I would suggest, therefore, subject to any questions that Mr. Nowlin has, that we await further developments, and then resume when there have been determinations, or when the staff and we have worked out some procedure that will move the case along.

Hearing Examiner Ewell: Do you have any questions of Mr. Webster?

Mr. Nowlin: I have two or three, Mr. Examiner.

Cross-Examination

By Mr. Nowlin:

XQ. Mr. Webster, during the course of the testimony this afternoon, reference has been made to the future growth possibilities of the gas companies almost being entirely reliant upon the development of house heating load. Do you concur in that observation made by some of the witnesses? A. I certainly feel that the house heating load is the key to the growth of the gas companies, yes, sir.

[1610] XQ. Now, with the advent of your competitive situation between the electric companies, attempting to develop their house heating load, and the gas companies attempting to develop their load, where does that leave the management of the company, insofar as pressing or promoting the sales of the gas or the electric? A. Well, the management of the company hopes that both the gas and electric companies will press for the ultimate amount of house heating they can get. But for a considerable

period, any electric house heating is quality business, and the real competition of the gas companies is going to come from oil.

XQ. Where does that leave the management? In other words, assuming that your house heating load is pretty closely the same cost as the gas heating load. A. Well, the electric house heating load is not the same cost as gas, of course. It is a quality business.

XQ. Not at the present time. It is my understanding you are putting in promotional rates for electric heating service. A. That is right. But they will still not be competitive on the same house for the same heat.

XQ. Do you know approximately how much difference there would be? A. It depends on too many different things. I know that [1611] that is the quality house heating, so to speak, and that it would be a long time before it is sharply competitive with natural gas for house heating, if natural gas can hold its present rates.

XQ. In other words, you could not give us an estimate, if you take an assumed new 8-room house, and your electrical man were going to sell them on the basis of electric heating, and the gas man on the basis of gas heating, you couldn't tell how much differential there would be between the two types of services? A. I would rather not take a stab at that.

XQ. Would it be substantial? A. It would be substantial, I believe, at the present time, but it depends on so many—when you come to a comparison of electric house heating, your qualities are apt to be—it takes so many different things. The first cost of the heating equipment, and things like that, that it is very different from the competition from gas and oil.

XQ. Well, now, isn't the primary interest of NEES to protect and promote its electrical service? A. Absolutely.

XQ. In other words, if it had to choose between the

gas and electric, its primary, major investments are in electric properties, and you would naturally tend to favor it? A. No, sir. I must agree that the major investment, of [1612] course, is in electric companies. But we have succeeded in building up these gas companies, giving them their head, by urging them to go out and get all the sales they can. And I am certain that that will continue to be our interest, that the NEES stockholders will benefit best by the success of the gas companies getting all the business they can, in a free swinging competition with electric, oil, or whatever the competition is.

XQ. Well, now— A. That is, I do not regard the fact that we have gas and electric service in the same town as being a bit different from areas—this is in our competitive position—from areas in which the other service is conducted by a non-affiliated company.

Hearing Examiner Ewell: In other words, there is no conflict of interest?

The Witness: I feel there is absolutely no conflict of interest, sir these—

Hearing Examiner Ewell: To use a word that is much quoted.

The Witness: In watching the business for 30 years.

Mr. Nowlin: Frankly, Mr. Examiner, I find it very difficult—if I had \$100 in one pocket, and \$1 in the other pocket, I would protect the pocket with the \$100.

Mr. Quarles: If I had \$100 in one pocket, and \$1 in [1613] the other, I would protect them both.

By Mr. Nowlin:

XQ. In view of this potential peril, Mr. Webster, to the operation of these gas companies, not only with respect to your eight companies, but the other gas companies in Massachusetts, what is the future for these gas companies out there if the gas rates continue to rise? A. Well, as I have said in the early part of my testimony, I think this

is extremely marginal, and the only good management and taking advantage of every possible economy, will permit these gas companies to stand in a competitive position, and remain profitable.

XQ. Of course it is pretty much a conjecture, in asking you to say what you would do if certain things developed, but if the price of gas were to become vitally important to the operation of these gas companies, and you are not able to compete for the oil or electric heating, what would the management do then? In other words, would you continue to own and operate these gas companies at the expense of the electric consumer? A. I think all I can say is you would do the best thing that seemed in order to the circumstances at the time. This is a dilemma which would be very unpleasant.

XQ. Well, now, how are the independent non-affiliated gas companies able to operate apparently profitably and [1614] efficiently, without the advantage of a holding company? A. Well, first, some of them have gone bankrupt, as the Chairman of the Massachusetts Department of Public Utilities testified yesterday. Others are—the sheriff, but they are fair to say just a jump ahead of the sheriff, but they are unable to give the service we think we give, and they are probably closer to the line. They face a more serious competitive position than ours, operated as we are now handling it.

XQ. Are any of the larger gas companies, independent companies, experiencing difficulty in Massachusetts, in getting loans and financing themselves, with rendering adequate service, in a position to answer that that you know of? A. I am not sure, but I think they have at the present time, Mr. Nowlin: That is all I can feel your philosophy out.

Mr. Examiner. I just wanted to say all right. I presume Mr. Hearing Examiner Ewell is in the same condition as the others.

Webster is excused under the same condition as the others. (Witness temporarily excused.)

(Witness temporarily

Hearing Examiner Ewell: Well, gentlemen, do you still feel the same way about reserving the ruling on these two exhibits, and on the other material that stands on the same footing? I am willing to make the ruling now, if anybody [1615] presses for it. I think in the off-the-record discussion awhile ago that the matter might be deferred. Do you still feel that way about it?

Mr. Quarles: I feel as previously indicated, that we should have the exhibits and the testimony all admitted, and should be admitted as soon as Mr. Nowlin has had an opportunity to do whatever cross-examination he thinks necessary. I am not pressing for an immediate ruling. I would certainly want to have an opportunity, if I could, of presenting a brief before you ruled against us on the admission of the vital ones. On the whole, I feel that the suggestion made earlier of leaving the case in its present position until there has been an opportunity for the staff to examine the total record, for us to supply the staff with any additional information that they need—and we can furnish in an informal and off the record basis,—and until together we can work out some plan for getting the substantive issues in this case up before the Commission for final determination without any unnecessary hardship on either side, and without the necessity of unnecessarily prolonging the hearings, whether by reason of cross-examination on areas that later prove to be irrelevant, or by reason of our having to duplicate relevant evidence that is already in.

Hearing Examiner Ewell: Just a minute. We are not quite finished. Now, if these gentlemen want to [1616] leave—I would like to have the hearing come to order if they are not going to leave. If they want to leave now, that is perfectly all right. But it is difficult to dispose of these matters with people milling about.

Mr. Nowlin: Well, Mr. Examiner, I feel, as I indicated

earlier today, that the best purpose for all people concerned would be served by leaving these exhibits marked for identification that are in question, until we have had a chance to go over and look at the different documents and reach a more enlightened judgment as to what is involved.

I say we have been operating off the cuff here for the last three or four days. We just are not in a position to express any intelligent judgment.

Hearing Examiner Ewell: All right. So you go along, generally, with the position outlined by Mr. Quarles?

Mr. Nowlin: As I understand it.

Hearing Examiner Ewell: In deferring the matter until after you have had an opportunity to examine the material?

Mr. Nowlin: That is right. We are going to have to cross-examine. We are not going to lose any time by waiting to offer these and accept them then as well as now, and it might save some contentions among counsel as to the relevance of them.

Hearing Examiner Ewell: All right. I just wanted to be sure there was no change in position.

[1617] Mr. Nowlin: I would like to ask on record of Mr. Quarles, as I indicated off the record earlier in the day, if in the course of this recess the staff should reach a fairly definitive view as to the confines of this single integrated system, assuming that we should conclude you did have a single integrated gas utility system, if you have any objections or if you would join the staff in requesting the Commission, if deemed necessary, to issue a statement of conclusions as to that effect, all with the view that upon reconvening of the hearing, that it would probably reduce the scope of the cross-examination considerably. I don't know that that can be done. I just say it is a potential possibility that when we get into this we may think they have established a record here which would justify their

being treated as a single integrated gas system. I say if that were—if we did come to that conclusion, and wanted to make the representation to the Commission that they make a finding, or if we could agree on it, so that we could delineate and probably reduce the scope of the cross-examination in the case.

Hearing Examiner Ewell: Do you have any comment on that?

Mr. Quarles: If the staff reaches that conclusion, I would certainly be happy to discuss it and to give very serious consideration to such a proposal. And to cooperate with [1618] the staff in working out any procedure that would cut down the amount of examination and cross-examination, so long as it doesn't prejudice my opportunity to urge any of the things that we have regarded as being important.

In a word, I would welcome the opportunity to discuss any proposal the staff has to make whenever they are ready to make it.

Mr. Nowlin: Well, I don't know that we will have one, but there is that possibility.

Hearing Examiner Ewell: Are both sides satisfied with the posture of the matter?

Mr. Nowlin: I have submitted, and he has answered.

Hearing Examiner Ewell: All right. I suppose the next order of business is to—

Mr. Nowlin: I would suggest, Mr. Examiner, that in view of the voluminous record we have here, that we would probably save time for everybody if we were to adjourn the hearing or recess the hearing, whichever you want to do, subject to the call of the Examiner, or upon further order of the Commission.

Hearing Examiner Ewell: Well, now, off the record.

(Discussion off the record.)

Hearing Examiner Ewell: Let the record show that [1619] the hearing in this matter is recessed subject to call of the Hearing Officer or the further order of this Commission.

(Whereupon, at 5:30 p.m., hearing in the above-entitled matter was recessed subject to call or further order of the Commission.)

PROCEEDINGS

[1621]^[1] Hearing Examiner: The hearing is convened subject to the call of Mr. Ewell, issued in his letter of February 24, 1961, setting this date and hour as the time for the resumption of hearing.

Mr. Ewell, while out of the hospital, is still unable to appear and the Commission has designated me to serve in his stead.

You may proceed, gentlemen.

Mr. Nowlin: Mr. Examiner.

[1622] In an effort to clarify and expedite the disposition of some of the controversial matters in the proceeding before undertaking initial cross-examination of Respondent's witnesses, I would like to summarize some of the pertinent background facts.

In August, 1957, the Commission issued its Notice of and Order for hearing pursuant to Section 11(b)(1) of the Public Utility Holding Company Act of 1935 in respect of New England Electric System and its subsidiary companies, and designated six specific matters and questions for consideration, the first of which was "Whether the electric utility assets of the New England Electric holding

[¹In preparing the record in this case the Commission has re-numbered the transcript pages following page 1619 (transcript pages 1620 through 2346) as 1619-1 through 1619-745, in order to fit those pages into its numbering system for other documents in the record. The transcript page numbers referred to in this Appendix are in all cases the original page numbers used by the reporter.]

company system constitute a single integrated electric utility system or more than one such system." Holding Company Act.

Public hearings were held and devoted exclusively to this particular issue. Upon completion of the record in respect of this particular issue the Commission issued its Findings and Opinion, concluding that the electric utility assets owned and operated by the subsidiaries in the NEES holding company system met the definition of an integrated public utility system as applied to electric utility companies set forth in Section 2(a)(29)(A) of the Act. Concurrently, the Commission entered an order dismissing the Section 11(b)(1) proceeding insofar as it related to the issue of whether the electric utility assets constitute a single integrated public-utility [1623] system. The Commission's Findings and Opinion are reflected in 38 SEC at page 93.

Thereafter the hearings were reconvened for the purpose of completing the record in respect of the five remaining issues.

Now I will concede, Mr. Examiner, that the order for hearing does not specify that evidence should be devoted initially to a particular issue to the exclusion of another, yet the sequence in which the issues are posed does indicate an orderly pattern for the presentation of evidence. As an illustration of this point—the first remaining issue scheduled in the Notice of and Order for Hearing is:

Whether the gas utility companies of the New England Electric System holding company system constitute a single integrated gas utility system or more than one such system;

On previous occasions the Commission has held with court approval that gas and electric properties could not together constitute a single integrated public utility system; and counsel for Respondents has indicated at page 598 of the transcript that he no longer contends that the gas

utility companies in the NEES system could be retained as a part of the NEES single integrated public utility system. Thus, the first order of business at the reconvened hearings was the determination of the present status of the gas utility companies in the NEES system, i.e., do they constitute one or more integrated systems. A major portion of Respondents [1624] direct case was based upon the assumption that the eight gas companies constituted eight separate integrated systems, and Respondents sought to establish the estimated loss of economies that would occur in the event of their individual severance. However, the record does contain opinion testimony of officials of NEES that the gas companies constitute a single integrated gas utility system and, as I will indicate later, the staff has reached the same conclusion. Since a determination of the status of the eight gas companies is a prerequisite to the application of the standards of Clauses (A), (B) and (C) of Section 11(b)(1) of the Act, the unanimity of opinion that the gas companies constitute a single integrated gas utility system should expedite the proceedings.

The second remaining issue is as follows:

The nature, extent and location of the 'single integrated public utility system' of the New England Electric System holding company system;

This issue is concerned with the identity of the single integrated public utility system which, under the Act, NEES may continue to control. On previous occasions such single integrated system has been characterized in the Commission's findings and opinions as the principal integrated public utility system. According to the record (Tr. 597 and 610), the Respondents have selected the electric utility assets in the NEES system, concerning which the Commission has previously found to constitute a single integrated public utility system, [1625] as their principal system. Isn't that correct, Mr. Quarles?

The third remaining issue is:

Whether, in addition to the New England Electric System holding company system's 'single integrated public-utility system', any of its additional electric or gas utility systems may be retained under common control under the provisions of Section 11(b)(1) of the Act, specifically Clauses (A), (B) and (C) thereof;

Since the eight gas companies in the NEES system are all located in Massachusetts, the principal question posed by this issue stems from Clause (A) of Section 11(b)(1), which provides that additional integrated utility systems may be retained under common control with the principal system if severance would result in a substantial loss of economies to the additional system. From the staff's viewpoint this is the principal remaining issue in the proceeding. Although the answer seems obvious, I would like to inquire further of counsel for the Respondents as to whether, in the event of an ultimate determination that the principal integrated electric utility system and the integrated gas utility system in the NEES system, cannot be retained under common control under the provisions of Clauses (A), (B) and (C) of Section 11(b)(1), which of these interests would NEES elect to retain? The answer is obvious.

Hearing Examiner: Off the record.

[1626] (Discussion was had off the record).

Hearing Examiner: On the record.

Mr. Quarles: As we have previously stated, we regard the electric utility system as our principal system and of course, that is the one we would like to retain if the gas and electric properties had to be separated.

Mr. Nowlin: Thank you, Mr. Quarles.

The fourth remaining issue is:

Whether any of the non-utility businesses conducted by the New England Electric System holding com-

pany system are reasonably incidental, or economically necessary or appropriate to the operations of the integrated public-utility system or systems retainable under common control;

This issue is concerned with the retainability of any non-utility businesses in the NEES system which, in this case relates to the New England Power Service Company—there being no other non-utility business in the system. Under the provisions of Section 11(b)(1) of the Act, the non-utility businesses may be retained if they are reasonably incidental, or economically necessary or appropriate to the operations of the integrated public utility system or systems retainable under common control.

The fifth and last issue is:

What action is necessary to be taken by the New England Electric System holding company to limit the [1627] operations of the system to those of a single integrated public utility system, together with such additional utility systems, and such other businesses, if any, as are retainable under the standards of Section 11(b)(1) of the Act;

This issue is concerned with the action, if any, that is necessary to be taken by the NEES holding company system to bring it into conformity with the provisions of Section 11(b)(1) of the Act. Of course the action to be required cannot be prescribed until the status under the Act of the electric and gas operations and non-utility businesses is determined. In this instance counsel for Respondents has indicated that if the electric and gas operations cannot be kept together, NEES would dispose of the gas companies. If, therefore, the service company can be retained with either the integrated gas utility system or the principal integrated electric utility system, I assume NEES would elect to retain the service company, together with the

principal integrated electric system. Is that correct, Mr. Quarles?

Mr. Quarles: That is correct.

Mr. Nowlin: Now, Mr. Examiner, Respondents have attempted to meet the foregoing issues and sustain their affirmative burden of satisfying the applicable statutory provisions by the offer of oral and documentary evidence at previous hearings. The oral testimony, extending over 1008 pages of [1628] the transcript, was given by six officials of NEES system companies, and by five officials of Ebasco Services Inc. who had been employed or retained by NEES to make various studies of the NEES system and testify in the pending proceeding. In addition thereto, 102 exhibits were offered and all but three were received in evidence. These three exhibits, marked for identification as Nos. 58A, 58B and 91, were the subject of objections by Counsel for the Division of Corporate Regulation and a ruling on their admissibility was reserved by the Hearing Examiner. As yet these three exhibits are not in evidence.

Exhibit 58A entitled "New England Electric System, Gas Severance Study, Volume I", was prepared by Ebasco Services Inc. and consists of 833 pages of narrative, financial and statistical data in respect of the gas operations of the eight NEES gas companies, including the gas department of Lynn Gas and Electric Company. This exhibit and related testimony assumed that the eight gas companies were eight separate integrated gas utility systems and sought to establish the losses that each would incur if independently severed from the NEES system. The receipt of this exhibit in evidence was objectionable on the grounds that it constituted a mass offer, was not responsive to the issue of whether or not the gas companies constituted a single integrated gas utility system or systems and was therefore irrelevant and [1629] immaterial.

During the recess of the hearings in the proceeding,

members of the staff of the Division of Corporate Regulation have reviewed the contents of Exhibit 58A and the transcript of the related testimony and are of the opinion that Exhibit 58A, together with other data in the record, warrants a conclusion that the gas utility companies in the NEES system, namely, Central Massachusetts Gas Company, Lawrence Gas Company, The Gas Department of Lynn Gas and Electric Company, Mystic Valley Gas Company, North Shore Gas Company, Northampton Gas Company, Norwood Gas Company, and Wachusett Gas Company, constitute a single integrated gas utility system as defined in Section 2(a)(29)(B) of the Act. At an appropriate time the Division of Corporation Regulation will urge the Commission to make such determination. Accordingly, the Division is in agreement with a statement on the record by Counsel for the Respondents and the opinion testimony of officials of NEES and also that of the Chairman of the Department of Public Utilities of Massachusetts that the gas companies of NEES do constitute a single integrated gas utility company.

Despite the fact that a large portion of the Respondents direct case was directed toward establishing the eight gas companies as separate integrated gas systems and the loss of economies that would occur in the event of [1630] their individual severance from the system, the staff is of the opinion that a major portion of the narrative, statistical and financial data in Exhibit 58A is relevant to a determination of whether or not the gas companies constitute a single integrated gas utility system or systems under Section 2(a)(29)(B) of the Act; and, in addition, Exhibit 58A contains some basic figures and statistics that are relevant to an ultimate determination as to whether there would be a substantial loss of economies in the event of severance of the single integrated gas utility system. Accordingly, the staff's previous objection

to the receipt in evidence of Respondents' Exhibit 58A is hereby withdrawn.

In this connection, however, Counsel for Respondents has indicated on the record (Tr. 1209 through 1229) that the estimated loss of economies to each of the gas companies was relevant because in the event of their ultimate severance from the NEES system the management may elect to dispose of the gas companies separately or in combinations of two or more, even though the eight companies were found to constitute a single integrated gas utility system. The Division contends that the method selected by Management for complying with a Section 11(b) (1) divestment order, perhaps one or two years after the entry of an order, is irrelevant and immaterial to the present issue of whether or not the severance of the single integrated gas utility [1631] system from the NEES system would result in the loss of substantial economies within the meaning of Clause (A) of Section 11(b)(1). Therefore, in withdrawing our objection to the receipt in evidence of Respondents' Exhibit 58A, I want it clearly understood that the staff is not conceding the validity of the position taken by counsel for Respondents in respect of this matter.

Respondents' Exhibit 58B, concerning which the Hearing Examiner reserved a ruling, was prepared by Ebasco Services Incorporated, and is entitled "New England Electric System—Gas Severance Study, Volume II." It contains 624 pages of narrative and statistical data regarding the estimated loss of economies that would occur to the electric utility companies and to the service company in the NEES system in the event of the severance of the eight gas companies from the NEES system.

Respondents' Exhibit 91, concerning which the Hearing Examiner reserved a ruling, was prepared by Ebasco Services Incorporated and is entitled "New England Elec-

tric System—Supplemental Report on Gas Severance—Combined Operations of Eight Gas Companies.” It contains 40 pages of narrative and statistical data regarding the estimated loss of economies that would be incurred by the eight gas companies on a combined basis in the event of severance from the NEES system.

The basis for the staff’s objection to the receipt in evidence of Respondents’ Exhibit 58B was previous decisions by [1632] the Commission that the losses in economies which may be considered under Clause (A) of Section 11(b)(1) are limited to those directly related to the additional system sought to be retained and not to the principal system. In support of this objection, attention was directed to the following cases:

Philadelphia Company et al., 28 S.E.C. 35, 52 (1948),
aff’d sub. nom. Philadelphia Company v. S.E.C.,
177 F.(2d) 720 (C.A.D.C. 1949),

The North American Company, 11 S.E.C. 194, 208
(1942), aff’d sub nom. The North American Com-
pany v. S.E.C., 133 F.2d 148 (C.C.A. 2d 1943) 327
U.S. 686 (1946),

Middle South Utilities Inc. et al, 35 S.E.C., and cases
cited at p. 13 (1953).

Upon review of Exhibit 58B, the staff has noted that some of the narrative, financial and statistical data therein is intermingled with and pertinent to some of the basic data reflected in Respondents’ Exhibits 58A and 91. By reason thereof and in order to expedite the proceeding by avoiding the task of identifying, extracting and reintroducing of the particular relevant items, the staff is withdrawing its objection to the receipt in evidence of Respondents’ Exhibit 58B. Again, I want to make it clear that in so doing the staff maintains its initial position that to the extent this exhibit is used to establish a loss of economies to the electric companies and to the service [1633] com-

pany in the NEES system, it is irrelevant and immaterial.

The staff concedes the relevancy of Respondents' Exhibit 91 and withdraws the objection to its receipt in evidence.

At the present time the staff does not intend to cross-examine any of the Respondents' witnesses in respect of the estimated loss of economies to the eight gas companies on an independent basis or the effect of their severance upon the electric companies or to the service company in the NEES system. Having concluded that the eight NEES gas companies constitute an integrated gas utility system, the first order of business, as we see it, is to proceed to the exploration of those matters pertinent to a determination as to whether the severance of the integrated gas utility system would result in a substantial loss of economies to such system.

[1634] Accordingly, I would like to recall to the witness stand for cross examination, Mr. C. D. Pearson, of counsel for respondents has nothing to the interim.

Mr. Quarles: Mr. Examiner, if I might take care of one or two minor items before proceeding with the cross examination, I would appreciate the opportunity.

Hearing Examiner: Very well.

Mr. Quarles: First, since the staff has withdrawn its objection to Exhibits 58-A, 58-B and 91, I would ask that they now be received as exhibits in evidence.

Hearing Examiner: Those three exhibits, of course, were offered at the time Mr. Ewell was presiding over this hearing, but I now understand the objections have been cleared up and that there is no objection to the admission of these three exhibits.

Accordingly, Respondent's Exhibits 58-A, 58-B and 91 are admitted in evidence.

Mr. Quarles: Thank you.

(Respondent's Exhibits 58-A, 58-B and 91 were received in evidence.)

Mr. Quarles: In examining the transcript, we found some errors, some of which seem to be sufficiently material to warrant a correction of the record.

We have prepared a memorandum of the proposed [1635] and understand that he approves. We would, accordingly, now move that the record be corrected as set forth in this memorandum.

Hearing Examiner: It seems to me that a good way to handle this matter of corrections is to have this memorandum made an exhibit in this proceeding.

Mr. Quarles: Then I would offer it as Respondent's Exhibit No. 103.

Hearing Examiner: The memorandum is admitted in evidence as Respondent's Exhibit No. 103.

(Respondent's Exhibit No. 103 was marked for identification and received in evidence.)

Mr. Nowlin: I might add, that I have gone over and checked these errors, and I have no objection to the corrections.

Hearing Examiner: I so understood, Mr. Nowlin.

Mr. Quarles: Last May, we introduced an exhibit which included estimated 1960 income statements of the gas subsidiaries of NEES. It seems appropriate at this time, to supplement that with an exhibit that would show the actual figures, and if Mr. Nowlin does not object, I would like to recall Mr. Hanson solely for the purpose of introducing that exhibit.

Hearing Examiner: Very well.

[1636] Whereupon,

HARRY HANSON

was recalled as a witness, and was further examined and testified as follows:

Mr. Quarles: Mr. Hanson has previously testified and been sworn.

Direct Examination

By Mr. Quarles:

Q. Mr. Hanson, I show you a sheet entitled, New England Electric System, Massachusetts Gas Subsidiaries, Consolidated Income Statements for the year ending December 31, 1960.

I ask you to describe it. A. This sheet which was prepared under my supervision includes the actual income statements for the year 1960 of each of the present gas subsidiaries as included in the NEES consolidated income statement, and in the last column an income statement of those subsidiaries, consolidated for that year.

I would like to point out that this sheet shows consolidated net income before dividends of \$1,857,501, but if we exclude surplus credits carried in the consolidated statements, as reduction of maintenance expense, the consolidated net income applicable to the year 1960 is \$1,753,813 which compares with the \$1,615,900 that we [1637] estimated in the early part of 1960 and which was set forth in Respondent's Exhibit at No. 87.

Q. Is this statement true and accurate to the best of your knowledge and information? A. It is.

Q. Mr. Quarles: I would offer this as Respondent's Exhibit No. 87-A.

Cross Examination

By Mr. Nowlin:

XQ. Mr. Hanson, directing your attention to the last column on the right hand side of this exhibit, I notice the heading, Gas Subsidiaries Consolidated.

In effect, is this gas combined, rather than gas consolidated? A. It is gas combined but certainly, so far as for all practical purposes, it is also consolidated.

Hearing Examiner: Is there any objection to the receipt in evidence of this exhibit?

Mr. Nowlin: I have no objection.

Hearing Examiner: The exhibit is admitted as Respondent's Exhibit 87-A.

(Respondent's Exhibit 87-A was received in evidence.)

Mr. Quarles: Mr. Examiner, I have nothing further at this time. Since, however, counsel for the staff has [1638] made it clear that his withdrawal of objections to certain of our exhibits was not to be interpreted as agreeing with some of our contentions, I would like to make it equally clear that in accepting the withdrawal and in offering these exhibits, we are not to be deemed thereby to agree with his philosophy or to accept his interpretation of the significance of the evidence or the purpose for which it is relevant.

Hearing Examiner: Thank you.

Whereupon,

C. W. PEARSON

was recalled as a witness, and was further examined and testified as follows:

Direct Examination

By Mr. Nowlin:

Q. Now, Mr. Pearson, I think maybe the record may reflect this but would you mind restating the scope of the study you made on behalf of Ebasco? A. I first studied the insurance program as NEES had it in effect for the gas companies during the year 1958. After that, I worked out the individual premiums for the individual gas companies. From then, from that point, I worked out the consolidated program for the eight companies, for the individual forms of insurance and worked it on a basis that the individual [1639] companies and the consolidated operation would have approximately the same program as NEES had in effect in 1958.

Q. Now, from whom did you get your instructions regarding the conduct of this study? A. From Mr. Quig.

Q. Did you get any instructions from officials of NEES regarding this? A. No. I was under the instruction of Mr. Quig.

Q. I believe you said you made a study of the actual coverages of the NEES companies as they were in 1958? A. That is true.

Q. Did you make any independent study or attempt to evaluate these insurance coverages to determine whether or not they should be supplemented or curtailed? A. The only evaluation that I made was the possibility that the smaller companies could not obtain as full a program as they have under the NEES program, and from that, I used, well, judgment factors or experience over the years handling utility risks.

Q. Now, preliminary to undertaking your study for the purposes of reports, did you make an independent survey or evaluation of the insurance coverages actually carried for the NEES companies, in order to determine their adequacy or inadequacy? [1640] A. I reviewed the NEES program and found that it was adequate for the exposures involved.

Q. Did you make that specific study, or was that just a general review? A. That was a general review.

Q. You did not reduce that study to writing? A. No, sir.

Q. Do you know whether or not, Mr. Pearson, the types of coverages for the NEES companies are usually those carried by other gas companies operating in the State of Massachusetts? A. I cannot answer for Massachusetts but they are usual to the utility business, country-wide.

I would presume the Massachusetts companies would be the same.

Q. Then I take it you did not make any actual study or

comparison of the coverages of the NEES companies with other Massachusetts companies? A. That I did not, no.

Q. Now, therefore, you don't know of your own knowledge whether or not the coverages for the NEES companies are the same as those carried by other Massachusetts companies; whether in the same amount or the same type?

A. I can compare it with one company, which we are reviewing now, and it is in its infancy, but the coverage that the NEES companies carried in '58 are similar, almost [1641] in every respect to this other company, which we are now reviewing.

Q. But you did not make a comparison with the other Massachusetts companies in general, to determine whether they were similar or not? A. No, sir. I did not.

Q. Now, directing your attention to Respondent's Exhibit No. 92. Does this exhibit list all of the insurance coverages for the gas companies in the NEES system, that were in effect in 1958, including the Gas Department of Lynn? A. No. It does not include the group annuity coverages and that is about the only coverage it does not include.

Q. The group annuity? A. Yes, sir.

Q. Would you describe that for us? A. The group annuity?

Q. Yes, sir. A. The group annuity is a retirement program and it was a difficult matter to rate for the individual companies and it was not part of my study, and in fact, it is not my field.

Q. Would you explain a little more in detail what the annuity insurance is? A. Well, the annuity insurance is a guaranteed retirement to employees at the age of 65.

[1642] Q. Would you explain a little more in detail what the annuity insurance is? A. Well, the annuity insurance is a guaranteed retirement to employees at the age of 65.

Q. Do the employees and the company both contribute

to the annuity fund? A. This I don't know. I did not make that study.

Q. In any event, this annuity insurance coverage was omitted from both the actual and pro forma figures on Exhibit 92? A. That is true.

Q. Now, are these various insurance coverages reflected on Exhibit 92, obtained in the form of a blanket policy or separate policy or just how are they covered? A. Well, several of them are under blanket policies. Others are individual policies applying only to gas companies.

Q. In other words, they don't have one blanket policy for the NEES system that is applicable to—I mean, that covers, that reflects all of these coverages for both the gas and electric? A. No, sir.

Q. Could you identify the particular coverages which are applicable to gas and those which are applicable to electric on this Exhibit 92? [1643] A. Well, the water heater warranty bond is specifically gas company coverage.

The legal liability, gas explosion, is specific gas company coverage.

Direct damage gas explosion, which is damage to the company distribution system, applies only to the gas system.

The other coverages are under blanket policies of the NEES system.

Q. Do you mean except for those you have just noted, all of the coverages reflected on Exhibit 92 are applicable to both the gas and electric companies? A. That is true.

Q. Now, could you identify on this exhibit which of these coverages are covered by a separate insurance policy as compared to a blanket insurance policy? A. I don't understand the question.

Hearing Examiner: Off the record.

(Discussion washed off the record.)

Hearing Examiner: On the record.

Q. Now, I would like to withdraw the question for the present moment.

Hearing Examiner: Very well.

Q. Mr. Pearson, from what insurance company or [1644] companies or other sources, are these various insurance coverages obtained? A. Do you wish me to go down the list, sir.

Q. Yes, sir. I wish you would. A. All right.

The All Risk Insurance coverage can be obtained from either casualty or fire insurance companies.

The Automobile—

Q. Pardon me. Are there several of those insurance companies that carry that type of risk? A. Yes, sir. There are quite a few of them.

Q. The next question is: From whom are the NEES companies presently obtaining this type of insurance? A. I would have to refer to my book. I am not quite sure that they are here—if you don't mind, sir.

I am afraid I don't have that information here but I could obtain it very easily, sir.

Q. Do you mean here in the room? A. Yes, sir.

Q. I would appreciate it if would.

Hearing Examiner: Let us suspend for a few moments while that information is being looked up.

(Brief recess)

Hearing Examiner: Let us come to order.

Are you prepared to answer that question, Mr. [1645] Pearson?

The Witness: Practically all. The only two coverages which I am not sure about, the insurance company is the Water Heater Warranty Bond, and the Liability Gas Explosion.

Those two companies, I would have to get up, but I can read down the list and give the U.S. insurance companies covering the rest of the policies.

By Mr. Nowlin:

Q. We are talking about all-risk. A. Providence Washington carries the contents of the motor vehicles, and the Travellers Indemnity has the destruction of valuable papers.

Q. Those are the companies that are actually carrying insurance for the NEES companies? A. That is right, in 1958.

Q. Are there other insurance companies that carry this type of coverage? A. Yes, sir.

Q. Would they be one or two or a dozen? A. Innumerable.

Q. Innumerable? A. Yes, sir.

Q. Now, are the rates charged by these various insurance companies for this type of risk, the same? [1646] A. Not in all cases, sir.

Q. What would the case be in the various areas? A. In some cases, you would—if the risk were large enough—you would get experience rating, and in some cases, the underwriters have the facility of furnishing an equity rating, which is their decision, as to whether the risk is one that they want and they will take it; and furnish them a credit. That is about it.

Q. Now, in making your projected study, did you assume that the insurance coverage—that is, the all-risk insurance coverages—would be used on the pro forma basis without change?

Mr Quarles: Mr. Examiner, possibly the witness understand that question, but I don't.

(The pending question was read by the reporter)

Hearing Examiner: Do you understand the question, Mr. Pearson?

A. I understand the question, but a decision was made here that they would not insure contents of motor vehicles

and under the destruction of valuable papers, that the amount would be reduced.

Q. Except for those notations, you used the same insurance coverage on a pro forma basis that actually is used—was used—during 1958? A. That is correct.

[1647] Q. In the system? A. That is correct.

Q. Now, the next item, Mr. Pearson, on Exhibit No. 92, is Automobile Physical Damage Insurance.

Is that insurance coverage carried by only one company or several companies? A. It is carried by all companies.

Q. Now, do you know which particular company carries that insurance for the NEES System? A. American Universal.

Q. Now, do you know how the rates which they charge compare with the rates that might be charged by other companies carrying comparable coverages? A. The rates that they charged, here again, were on an experience basis, and an equity credit allowed so that the entire schedule of automotive equipment of the NEES companies, carried an individual rate per car, was less than the manual rate shown for the State of Massachusetts.

Q. I see; but you did not make any study or attempt to ascertain whether or not the NEES companies could obtain this insurance coverage at less cost than it was then paying? A. I doubt that they could have.

Q. But you did not make any specific study to [1648] determine if this is the most economical arrangement that they could have? A. I will say that the automobile physical damage insurance carried by NEES is one of the lowest rated policies that I have seen.

Q. I assume that you assumed then that there would not be any economies that would be appreciable in the event that they place that insurance with some other company? A. I doubt very much if they could obtain it.

Q. Now, directing your attention to the next item, com-

prehensive crime, do you know what insurance company carried that coverage? A. St. Paul Mercury.

Q. Now, is that the only company that carries that type of coverage? A. No, sir.

Q. Are there several of those? A. Innumerable.

Q. Did you make any comparison of the rates charged the NEES companies by its present insurers with those that were generally applicable for the other insurance companies, to determine whether or not NEES could obtain this insurance more economically? A. Yes, sir. The St. Paul Mercury actually offers the lowest rates in this form of insurance.

[1649] Q. I see. Now, directing your attention to the Water Heater Warranty Bond which, I understand, that coverage is applicable only to gas companies? A. That is true.

Q. Is there only one insurance company that carries that type of insurance? A. No. There are a lot of companies that are licensed to carry that type of insurance, but very few of them wish to write it because it is a very poor underwriting risk.

Q. Did you make any study to determine in that particular case whether or not this insurance was as economical as it could be? A. That question could be answered at whatever rate you can get the coverage for, that would be the least cost, because here it is a matter of getting the insurance company to take the risk.

Q. Did you review any of the papers of the NEES companies to determine whether or not they had attempted to obtain this coverage from any other insurance companies? A. No, sir.

Q. So that you don't know whether or not they may have made a more economical arrangement than the present situation or not? A. I don't know that, no, sir.

[1650] Q. Now, coming down to casualty insurance, is

that coverage generally available to the NEES system by various insurance companies, or is that rather limited?

A. No. Various insurance companies.

Q. Did you make any study of this particular coverage to determine whether or not the NEES companies might obtain this insurance coverage to determine whether or not the NEES companies might obtain this insurance coverage more economically than it is presently obtained? A. Yes, sir.

Q. What was the result of that study? A. That, on a basis of their rating, it would be almost impossible to reproduce that coverage at the cost that they obtain it for.

Q. Do you know what company that coverage is carried? A. That is with Travellers, sir.

Q. But there are other companies that do carry this type of insurance? A. Oh, yes.

Q. Now, did you make any study of the individual coverages reflected under casualty insurance, that is, as to the amounts of liability, to determine whether or not they were adequate or inadequate? A. Compared with the industry, they were adequate.

[1651] Q. Now, as I understand it, this casualty insurance coverage is applicable to all of these companies, both electric and gas? A. That is true.

[1652] Q. Dropping down under that category of casualty insurance to legal liability gas explosion, I think you stated that was applicable, a blanket policy of gas companies only; is that correct? A. That is true.

Q. With whom is that policy carried? A. That is the company I haven't got. I didn't write it down in my records here.

Q. Does anybody in the room have it? A. Don, would you know what company that is?

I could obtain that for you. It is one of the excess companies and I don't know which one.

Q. Do you know whether or not here are several companies that provide that type of coverage? A. This is a very limited field of underwriting.

Q. Would you say there are two or three or just how many? A. I think your estimate is a good one.

Q. Did you make any study or comparison of the rates charged by the present insurer for the NEES companies with that which might be obtained from any other insurance company? A. Yes, sir.

Q. And what was your conclusion? A. That this is written at about 50 per cent of the normal rates.

[1653] Q. Now, going on down the list to explosion insurance. I assume that the boilers, air tanks and so forth is applicable to both the gas and electric; is that right? A. Yes, sir.

Q. And the direct damage gas explosion is only a blanket coverage for the gas company; is that correct? A. That is true.

Q. Now, who carries that? What company provides that insurance? A. The boilers and air tanks, et cetera, coverage is with the American Motorist Insurance Company. The direct damage gas explosion is with the Insurance Company of North America.

Q. Are there several insurance companies that provide that type of coverage? A. Yes, sir.

Q. Did you make any comparison of the cost of this insurance to the NEES Company? A. Yes.

Q. What it would cost with other companies? A. Yes, sir.

Q. And what was the result of that conclusion? A. The American Mortorist is the lowest premium writing company as respects this form of coverage and the Insurance Company of North America is a company with whom you negotiate [1654] this form of coverage, which is a limited market

for the form of coverage and they are one of the low premium writers of this form of coverage.

Q. Now, your next item is extra expense insurance.

A. Yes, sir.

Q. Do you know the company which provides the coverage for NEES? A. National Fire, and here this is a blanket coverage for the gas companies.

Q. Did you make any analysis of this particular coverage to determine whether it could be obtained more economically? A. Yes, sir.

Q. I might ask you the same line of questions with respect to the next four items, if you want to take them up and explain them yourself. A. I will do so. The fire, insurance and extended coverage and vandalism and malicious mischief is a blanket policy covering all of the NEES properties and that is carried with the Home, Niagara and National Insurance Companies.

The rents insurance is a blanket coverage for all of the NEES properties that require that form of coverage and that is carried with the Home Insurance Company.

The sprinkler leakage insurance is applicable only to those properties that are sprinkled and that is carried with the Home Insurance Company and the Group, accidental [1655] death and dismemberment and accident and health is carried with Metropolitan.

Q. Do you know, Mr. Pearson, who in the NEES system negotiates or arranges for these various insurance coverages? A. Yes, sir.

Q. Would you identify on the record who it is? A. Mr. Arthur Jillette.

Q. Who is he connected with—the service company? A. I don't know which company. I presume he is with the service company, yes, sir.

Q. Do you know whether or not Mr.—what is it? A. Jillette.

Q. Whether Mr. Jillette made any effort to obtain comparative bids for the various types of coverages now carried by the NEES companies? A. Mr. Jillette is a very astute insurance manager and if he didn't do that, I would be surprised.

Q. But you don't know of anything that you ran across in the course of your study that would indicate that competitive bids were sought for this insurance coverage? A. No, that wasn't within the province of my study.

Q. Did Mr. Jillette agree with you that these actual insurance coverages and costs should be projected into the pro forma figures? [1656] A. I don't know.

Mr. Vorenberg: I am sorry, I don't understand the question.

Mr. Nowlin: Strike the question and let me start over again.

By Mr. Nowlin:

Q. Did Mr. Jillette agree with you that the actual coverages and costs now available to the NEES systems should be projected into the pro forma coverages and costs reflected in your report?

Mr. Vorenberg: I don't think the witness has testified that he took the position you are referring to with respect to the cost, Mr. Nowlin. It is just a question, and I still find the question confusing.

Mr. Nowlin: As I understand it, he just stated Mr. Jillette was an expert in his field and what I was trying to ascertain is that in making his pro forma projections of the coverages and costs did Mr. Jillette agree with you that you should use the actual cost and the coverages that are now available.

The Witness: Mr. Jillette was present when I spoke with various underwriters and underwriter representatives in order to obtain their view on the rates to be used. He was in agreement at that time.

By Mr. Nowlin:

[1657] Q. Agreement as to the pro forma cost? A. He has checked those and it is presumed that he is in agreement.

Q. Did you discuss the pro forma cost with Mr. Jillette? A. Only at the time that I made up the costs and presented it to his department to be reproduced.

Q. Did he raise any questions or objections to your projections? A. None.

Q. Then I assume that Mr. Jillette agreed with the pro forma costs which are reflected in your report? A. That is my presumption, too.

Q. But you didn't ask him to examine these and analyze them to determine specifically in what areas he would agree or disagree with you? A. Not specifically, no, sir.

Q. Do you know, Mr. Pearson, of any utility companies or utility holding company systems that are self-insurers for coverages comparable to those now applicable to the NEES companies? A. Yes, on a primary basis.

Q. Would you identify those for the record? A. Yes. There are quite a few utilities who self-insure on a primary basis up to ten or fifteen or twenty [1658] thousand dollars for liability claims. Some utilities file with the state to become self-insurers for Workmens Compensation and then carry excess coverages above that. In those two fields they would, in some cases, be self-insurers.

Q. Will you explain what you mean by primary costs? A. Well, primary insurance is an amount of insurance—we will say for liability and property damage, it would be in the amount of \$10,000, and they would self-insure that. This would be the primary coverage. The excess insurance they would carry two, three, up to ten million dollars, according to what they thought their requirements were.

Q. Do you know of any reason why some or all of the NEES companies shouldn't be self-insurers for that type

of risk? A. In some cases they are. They have a deductible form of insurance, just a minor amount of a hundred dollars or two hundred dollars, which they handle in a general form of expense, rather than to file a claim with the insurance company.

Q. Now, are those self-insurances taken into account in the projection of your pro forma figures? A. Yes, sir.

Q. Do you know, Mr. Pearson, whether or not Mr. Jillette made any independent analysis or study of the pro forma costs of your study? [1659] A. This I don't know, excepting that he had letters from his insurance representatives on various insurance coverages.

Q. Did anybody in the NEES system indicate any objection to the types of coverages and costs which you came up with on a pro forma basis? A. No, sir.

Q. Does Ebasco Services, Inc. act as the insurer for any of its clients on any insurance coverages? A. Ebasco is a service organization, sir, and we don't place insurance nor do we effect insurance.

Q. Does Ebasco arrange or negotiate insurance coverages comparable to those of NEES for any of its clients? A. We assist our clients in doing so, yes, sir.

Q. What do you mean "assist"? A. We are not licensed brokers nor agents and we have no position in negotiations. We can assist the client or his broker in approaching insurance companies.

Q. Do you suggest to the clients the particular companies which they should approach in order to get certain types of coverages? A. In general, we know the market fairly well to know where it would be available, yes, sir.

Q. Has Ebasco, in the past, Mr. Pearson, followed the policy of making mutual arrangements or combining [1660] different non-affiliated companies for the purposes of getting blanket coverages? A. This is true with the old Electric Bond and Share System, yes, sir.

Q. Do you do that now? A. The individual Electric Bond and Share System Companies; that is, the original system companies, do continue these blanket contracts, yes, sir.

Q. And they continue these blanket contracts despite the fact that they are not under common control? A. That is true, sir.

Q. Now, could Ebasco today arrange blanket insurance coverage comparable to those of NEES with various non-affiliated clients on a blanket basis? A. I doubt it very much, sir.

Q. Let me start over. As I understand it, Ebasco has about 90 to 100 utility company clients; is that right? A. That is true.

Q. Now, could you take, for example, twenty of those clients and combine them together and obtain blanket insurance coverage for those twenty companies? A. Through foreign insurers this might be available, yes, sir.

Q. Now, do you do any of that? A. Some of these companies do, yes, sir.

[1661] Q. Do you know how the costs for those blanket policies compare with the cost for the comparable blanket policies on the NEES system? A. Yes, I do.

Q. State what it is. A. Primarily we are talking about the legal liability gas explosion coverage, which is the item under casualty insurance. This is a form of insurance that the underwriters at Llyod would write for a group of companies that are not associated. The coverage for NEES is written at an approximate rate of eleven cents per hundred dollars of revenue for three years.

I am very sorry; I am speaking of excess of primary insurance, excluding the gas explosion and that was written—that is the one at eleven cents and that comes up with a three year premium of approximately \$24,000, or \$8,000 annually, which is shown here in the pro forma figures.

That is a very low rate. Applying this in general to utilities, with the volume of revenue which these gas companies have, that rate would be somewhere around ten to twenty cents annually instead of eleven cents for three years. The legal liability gas explosion is a negotiated rate and is shown there at \$38,450.00 and that is approximately 50 per cent of manual, manual rates, as the Travelers would issue that coverage. This compare very favorably with those clients with whom [1662] we have associated.

Q. Well, now, again taking a supposition, could Ebasco take twenty of its utility clients, non-affiliated clients, and arrange blanket insurance coverage comparable to those reflected on Exhibit 92 for the NEES companies? A. As respects the excess insurance with foreign insurers, it might be done. I am not saying that it could be done, but it might be done.

Q. Could that arrangement be made for the personal injury and property damage insurance coverage reflected on 92? A. No, sir.

Q. Why not? A. This cannot be done for any of the individual companies. They have to follow the rules and regulations within the state that they operate and those rules and regulations will not allow a blanketing of that form of insurance for unassociated companies.

Q. Are the personal injury and property damage coverages reflected on Exhibit 92 placed with the Travelers Insurance Company? A. That is true.

Q. Both actual and pro forma? A. The pro forma coverage has not been placed and we are just taking the manual rates and allowing a credit under [1663] that for the pro forma figures. The insurance has not been placed.

Q. Well, it assumes a continuation of the present arrangements? A. That is true, sir.

Q. And that is at that cost? A. That is at that cost, yes, sir.

Mr. Quarles: Mr. Nowlin, you say it assumes a continuation of the present arrangement. Do you mean the present coverage or actual insurance policies?

Mr. Nowlin: Well, I assume and his testimony is that this insurance is now placed with Travelers Insurance Company and that in projecting his pro forma figures he assumes it would continue to be placed with Travelers Insurance Company. Is that correct?

The Witness: That is true.

Mr. Quarles: But under different policies, of course?

Mr. Nowlin: Certainly you would have to have a different policy for the eight gas companies than you have for a blanket coverage for the electric and gas companies.

By Mr. Nowlin:

Q. While I am on that, what particular feature, Mr. Pearson, do these two coverages, that is, personal injury and property damage, controls the rates that are charged for [1664] that coverage? Is it that aggregate amount of the coverage or the type of coverage? A. No, it is a classification in an insurance manual. This would be under gas companies. I believe the code is 7502. I am not quite sure of that code, but I believe that is so.

Q. What I was attempting to get at here is personal injury is one person, a hundred thousand dollars, one accident, one million. Suppose that was one million dollars and ten million dollars. Would there be any increased cost for that coverage? A. Oh, yes.

Q. Would it be substantial? A. A substantial increase.

Q. What I was thinking about was on the personal viewpoint, an automobile policy, that there is slightly little difference in the cost of a liability policy for a hundred thousand dollars coverage than it is for two hundred thousand dollars coverage. I was wondering if the same thing would apply to this particular type of insurance.

A. No. The increased limits table that you would use

on your automobile policy is entirely different from the increased limits table used in this instance.

Q. Now, excluding for the moment the Bond and Share Companies' mutual arrangements, do you know of any other [1665] mutual arrangements in the utility industry whereby non-affiliated companies do obtain blanket coverage comparable to those reflected on the exhibit, Respondent's Exhibit 92? A. I believe so.

Q. Is that common in the industry, that non-affiliated companies would group together for purposes of obtaining blanket insurance coverage? A. No, it is not usual in the industry. It is usual that those group of companies that were under holding companies would wish to continue the coverage because they have a broader scope of risk and naturally they get lower rates by obtaining their insurance in that manner.

Q. I am not sure whether you answered this before, but I would like to inquire as to whether or not Ebasco could take, say, twenty of its clients and obtain the same coverages that are reflected on Exhibit 92 at a more economical price than that presently obtained by the NEES companies. Could Ebasco do a better job in placing these insurance companies from the viewpoint of cost of coverage than the NEES officials themselves are doing? A. No, sir.

Q. Now, at page 1468 of the transcript, and I think in the course of your previous testimony you referred to a manual rate and negotiated rate? A. That is right.

[1666] Q. Is that correct? A. That is right.

Q. Would you please identify the particular insurance coverages on Exhibit 92 that are based on manual rates and those on negotiated rates? A. Under an all risk insurance, you have what they call guide rates, but the coverage may be negotiated. In other words, the insurance company issues a guide rate which the underwriter, if he considers

the risk good enough, he can disregard and negotiate a rate for the coverage.

Q. Well, now, is that risk—I mean the rate of risk, rather, is that applicable to the entire NEES system or is it applicable to segments of it? For example, the electric or the gas? A. Well, if the underwriter sees a substantial premium and sees a substantial exposure and he has a good distribution of risk, he would naturally negotiate a lower rate, whereas if he has a more confined risk and where the risk is subject to a greater loss in a more confined area, he would want a higher rate.

Q. Let me ask this specific question: Let's assume that the record of the gas companies was excellent insofar as accidents and so forth; the record of the electric companies was not excellent. Would that make any difference in the overall rate to the gas and electric companies? [1667] A. It could have an effect, yes, sir.

Q. Do you know whether or not that has occurred in the NEES system? A. That has not occurred.

Q. Pardon me. Go ahead with your answer. A. You wanted me to go down the entire list, sir?

Q. Yes. A. On the automobile physical damage insurance, they are stated rates or manual rates and the only credit you would get there would be experience credits and a fleet credit.

Under the bonds, as I stated before, the St. Paul Mercury, they issue their contracts at substantially below the normal manual rates. However, the type of risk that is associated with comprehensive crime is rated according to manual and all of the companies who are in that bureau would use those rates. The St. Paul Mercury is not in the bureau and therefore they reduce those rates.

Q. In other words, as I understand it, they have a manual rate, but that could become a negotiated rate? A. Not

specifically a negotiated rate, sir. They allow a credit. The St. Paul Mercury allows the credit.

Workmens Compensation Insurance is a rated risk according to the manual.

Your personal injury and property damage coverage [1668] is a rated risk according to the manual.

Your automobile bodily injury and property damage is a rated risk according to the manual.

Your excess of primary umbrella is a negotiated rate and legal liability gas explosion is a negotiated rate. Your boiler, air tank, et cetera, they are manual rates. The American Motorist allows discounts in rates and dividends.

Direct damages, gas explosions, is a negotiated rate. Extra expense insurance is a manual rate.

Fire insurance is subject to rating of the individual properties, according to a rating schedule where there would be debits and credits according to exposures.

Rents insurance is a manual rate. Sprinkler leakage insurance is a manual rate. The group life, accidental death and dismemberment, the Metropolitan rates that.

Q. Do I understand, Mr. Pearson, that in each instance where you have a manual rate that there still may be some discount? A. Oh, yes.

Q. There is some discount involved? A. Oh, yes, experience credits.

Q. And that is in each case of a manual rate? A. Not in each case. That is according to the size of the risk. The greater the risk, the larger experience credit you can obtain. Also, in some cases an equity credit [1669] may be allowed. This is at the underwriter's discretion, as to whether he can equity rate the risk, as to whether the insurance broker will give up part of his commission so he can get a little higher equity rate. Then there is also retrospective rating which is also superimposed upon the experience rated risk.

Q. What do you mean by equity rates? A. Equity rates is a judgment credit that an underwriter can give when he sees a risk. As I explained before, when he sees a risk that he knows has had good experience, he has a good dispersal of hazards and risks, and he wants to make sure that his company carries that risk, he will arbitrarily allow five or ten per cent deviation as an equity rate.

Q. These credit and discounts you refer to could be applicable to the electric or gas? A. Yes, sir.

Q. Are they applicable, Mr. Pearson, on a combined company basis or individual company basis? A. On the individual company basis, some of them would be too small and being a gas risk, I doubt that very many casualty underwriters would allow equity credits of any type at all.

Q. Why is that? Is that because the gas business is more hazardous? [1670] A. No, not specifically. There are just as many claims in the electric business as in the gas business. It is just the possibility of a larger claim. That is about all.

Q. Do you mean by that, Mr. Pearson, that there is a possibility of a larger claim for the gas than for the electric? A. Yes, sir.

Mr. Quarles: Could I ask him a clarifying question?

Mr. Nowlin: Surely.

Mr. Quarles: Might I ask the witness, in the interest of clarification, what is the relationship between the equity rating that you have been discussing and the competitive bid for insurance?

The Witness: Well, actually the allowance of the equity rating would be the competition that you have, as you have put it. That would be the competitive bid, and if the risk, as I say, were large enough and the past experience as the underwriter has seen it, was good, he would try to allow a higher equity rate than another insurance company under-

writer would do. And in a position of that sort, you try to pick the underwriter that has the most authority.

Mr. Nowlin: Mr. Examiner, at this point I would like to state that the respondents have supplied the staff with a letter dated January 4, 1961, and an attachment which [1671] I would like to request Respondent to offer into evidence as their Exhibit 92-A.

Mr. Quarles: Mr. Examiner, this letter was furnished at the request of the staff, as Mr. Nowlin has stated. It was written to Mr. Gishman by Mr. Hanson, dated January 4. It explains the difference between the two figures relating to insurance in Exhibit 92 and gives additional information as to blanket coverage and allocation of cost with respect to insurance cost shown in Exhibit 89 and we are glad, at counsel's suggestion, to offer that as an exhibit.

Mr. Nowlin: No objection.

Hearing Examiner: What would it be identified, as Respondent's Exhibit?

Mr. Nowlin: 92-A was what I was suggesting.

Mr. Quarles: Yes.

Hearing Examiner: Let the exhibit come in as Respondent's Exhibit 92-A.

(Respondent's Exhibit 92-A was marked for identification and received in evidence.)

By Mr. Nowlin:

Q. Mr. Pearson, coming back for the moment to Exhibit 92-A, I note that there are several insurance coverages on there that show no change as between the actual or the pro forma basis combined. Would you identify those particular [1672] items and explain why there are no changes? A. Under the automobile physical damage insurance—Oh, no, I am sorry, there is a change there. Under the water heater warranty bonds, that applies only to the gas companies and there would be no change in that premium or coverage.

Q. Why is that? A. It was originally negotiated for the gas companies only.

Q. And is not applicable to the electric companies? A. That is true, sir. The direct damage gas explosion, there would be no change there. That was also negotiated for the gas companies only.

The extra expense insurance is the gas company again and there would be no change there. The fire insurance extended coverage and vandalism and malicious mischief, they are placed on the amount of value as represented by the gas companies. There would be no change there.

Q. The amount of value of what—the property? A. The amount of value of the property, yes, sir.

Rents insurance, there would be no change there. It is the same rents, \$129,600.00.

Sprinkler leakage, there would be no change there.

Q. Legal liability gas explosion, I think you left that out. [1673] A. That I did leave out, yes, sir. There would be no change there. It applies only to the gas companies.

Q. Directing your attention to the rents insurance, just what does that cover? I mean is that insurance on property rented or what does it cover? A. This covers the rental value of the properties that they occupy.

Q. Does that include the buildings, if they own them? A. Yes, sir, and the loss of rental of those properties.

Q. Now tell me what would happen under your pro forma estimates of the Ebasco report. A lot of these properties are being abandoned, both companies moving out. Shouldn't there be an adjustment in this insurance cost for that eventuality? A. Well, I made no study of that, but if there is going to be any change in the rental value of the properties, there would naturally be a change in the insurance, yes, sir.

Q. In other words, if the gas and electric company were severed from common control and were moved into com-

pletely different quarters, this insurance item would not be applicable, would it? A. Yes, it would because the rents insurance is on the property that they own. This covers the rental value of the properties.

Q. How about the properties they are leasing? [1674]

A. Well, I made no study of their leased properties, sir.

Q. Now, will you refer to Respondent's Exhibit 92-A just introduced into evidence? I note that reflected on this exhibit, under the third column of statistical data, the item "other companies". Would you explain what is covered by "other companies"? A. I don't know.

Mr. Quarles: Mr. Nowlin, you understand that this exhibit was not prepared and submitted by this witness. He wouldn't be expected to be familiar with all of the details of it.

Mr. Nowlin: I thought perhaps this was information that was available to him in the course of his study and he might have taken this into account in preparing his results.

By Mr. Nowlin:

Q. Do you recall, Mr. Pearson, in the course of your direct testimony whether or not you testified to the effect that the allocation of these various insurance costs per books were on a fair basis? A. Yes, sir.

Q. Well, now, how could you form a conclusion as to the fairness of the allocation without having some information as to the cost allocated to other companies? A. The allocation is made, specifically speaking, of [1675] contents of motor vehicles, number of vehicles. I knew how many vehicles were in a total schedule of contents of motor vehicles and I did find out how many or the number of vehicles there were in the gas companies. All I had to do was divide the total number of vehicles into the premium, get a cost per vehicle and multiply it by the number of vehicles and I had the answer for the gas companies and that applies

practically the same throughout. I mean it will be variable—it will be payroll or the valuation of vehicles, so that in all cases there is a rate applicable to a measurable item in the gas companies' schedule.

Q. Then, as I understand it, you didn't make a detailed study of the allocation of insurance costs as between the gas and electric and other companies? A. Excepting only in this manner: When I found a rate applicable to a specific measurable item and then knowing that measurable item appears in the gas companies, multiplied it by the rate and I had the premium and it agrees exactly with these figures I submitted.

[1676] Q. Well, how could you arrive at a conclusion that on the basis of those computations that a certain dollar amount allocated to electric or the gas was a fair allocation? A. Because the number of vehicles will specifically stay with that, content of motor vehicles; where it is allocated by the number of vehicles, there would be so many vehicles with the gas company, so many vehicles elsewhere, which I didn't pay any attention as to whether it was electric or other companies.

Q. Returning again, Mr. Pearson, to Respondent's Exhibit 92, and particularly to the item casualty insurance, I note under this one item of personal injury and property damage. What type of coverage does this afford? A. That affords protection against third party claims for either personal injury or property damage.

Q. Does that mean of any character, whether by motor vehicles or by accident occurring in the electric or gas operations? A. That covers the operations of the company exclusive of the automobile equipment. The automobile equipment, as you will notice, follows immediately below that coverage you just stated. However, this is all in the same contract, so it is academic.

Q. Could you give us some specific items or occurrences

that might be covered by this type of insurance? A. Yes, I believe I did that in my direct testimony where [1677] I gave some gas explosion claims, but on automobile, if you were driving along and you injure somebody or injure property by bumping into them, those people would have a liability claim against you.

Q. Well, now, I understand that you said that automobile was not covered in this coverage. A. Well, these are divided on a schedule because the personal injury and property damage take a different rating basis than the automobile does, and that is the reason I divided. Actually they are all under the same contract.

Q. Just for the moment, let's adhere to the personal injury and property damage. A. Yes, sir.

Q. I think you referred to the explosion experiences in the gas companies. A. That is right.

Q. What type of similar experiences have you had with the electric company? A. Electric companies, we have had quite a few reported accidents and payable third party claims from people raising pipes into high tension wire, drilling wells, and the extension of the pipe going up, contacting the high tension wires, and they are electrocuted. Long Island Lighting have had a great number of those from people digging wells out there for watering lawns, but it is pretty prevalent throughout the country.

[1678] Q. Is this prevalent in the NEES area? A. I would presume so, yes.

Q. Do you know what the experience record has been there with respect to these types of catastrophes or injuries? A. On this specific type of catastrophe?

Q. This coverage, yes. A. Oh, coverage. For which companies?

Q. Well, what I am talking about under this coverage can you give me some specific situations where these injuries have occurred in the electric company which you did

awhile ago, beyond the two or three items that you mentioned? Then I would like to follow that with, what has been the past experience record of the NEES System of these type of injuries or occasions? A. Well, these type of cases, there could be a very simple one of tripping on a sidewalk in front of one of their buildings. They could bring suit for that type of accident or slipping and falling in the buildings themselves. There are various types of third party claims. There are so many different types that you could just speak about it all day.

Q. Do you know what the past experience record of the electric companies and the gas companies have been in these two particular fields? A. I reviewed the experience and specifically I believe the NEES companies under the liability insurance has an experience credit, I believe it is about 52 percent, sir, which indicates [1679] good experience.

Q. Is that the electric or gas company? A. This is the general overall experience.

Q. Can you give us a breakdown of that as between the gas and electric? A. Specifically, I requested the insurance company for that, and I do have it. Under the public liability and property damage for the gas companies, Central Massachusetts credit is 15 per cent, Lawrence is 25, Lynn is 25, Mystic is 45, North Hampton is 10, North Shore 25, Norwood 10, Wauchusett, 15. On a composite basis combining all of them—

Q. Before you go to that, could you give us the same information on the electric companies? A. No, I cannot, sir.

Q. Could you give us an average on the electric companies? A. No, I cannot.

Q. Is there anybody in the room that could supply you with that information? A. No, sir.

Q. Could you tell us the experience discount for the system as a whole? A. I believe it is that 52 percent. I

am not quite sure of that 52 percent, but it is very close to it, sir.

Q. On the basis of rough computations here, Mr. Pearson, it looks like the experience discounts for gas companies average [1680] somewhere from 25 to 30 percent as compared with 52 percent for the system. Wouldn't that indicate that the experience record of the electric companies is substantially different from those of the gas? A. No, sir, because here you are talking about a volume of premium. You have a larger spread of risk. You have more premium involved, and the higher the premium the greater the experience credit. It is a relationship of losses to premium.

Q. Could you give us a little more detailed clarification of these figures? I don't get just what you are driving at. A. Well, experienced rating is quite a complicated computation made by the insurance company based on the experience of the risk. You take the total payrolls in a normal manner times the rates applicable and arrive at a pure premium. You then take your losses of \$300 and under, and you apply a certain factor to those losses, and then all losses from three hundred and over to fifteen hundred you apply another factor to that. After you are through with that, you look up credibility factors and the loss amounts as compared with the total premiums involved, and this, by the way, is carried over a period of three years, so that it gets so devious, the computation is almost impossible to describe verbally.

Q. From the viewpoint of loss experience alone, Mr. Pearson, how would the experience of the gas companies compare with those of the electric companies in the NEES System? [1681] A. Well, the loss figures that I saw showed the relationship to be about the same. Their losses are very low in both the electric and the gas, and I didn't work out any direct relationship of the operation.

Q. I think you stated you thought the loss experience between the gas and the electric are somewhat equal, is that right? A. That is right.

Q. Have you made any allowance for the fact that the gas companies are much smaller in total operations than the electric companies? A. Allowance where, sir.

Q. In your pro forma figures. A. Oh, yes. These pro forma figures here under liability for the individual companies do carry those credits which I mentioned to you, and on a consolidated basis they carry a credit of forty percent.

Q. Well, when you refer to the loss experience of the gas and electric being equal, what do you mean by that term? A. Their losses were so minor that in relationship to the overall credit I just don't know how to answer your question; but the losses were very minor during that period of 1958.

Q. For the system as a whole? A. That is right, sir.

[1682] Q. And for each individual segment, whether it is gas or electric? A. That is exactly right.

Q. Well, then, insofar as the total premiums paid, wouldn't that indicate that the electric company should pay a substantially greater portion of the total cost than the gas? A. They already have. I am pretty sure of that because the premium is distributed by payroll.

Q. Now, referring again, when you referred to the amount of losses in the gas and the electric being about equal, do you mean that the total dollar losses in the gas are about equal to the total dollar losses in the electric? A. No, sir.

Q. What do you mean? A. I meant in relationship to the payrolls or the premium that was charged to the companies. In other words, there is a volume of premium here of the whole NEES operation, and the losses that have gone into the experience credit are almost in relationship to the volume at risk.

Q. Mr. Pearson, are the manual rates the same for the gas as for the electric? We are talking now still about personal injury and damage insurance? A. The manual rates, the basic manual rates, approximately the same. There is, however, an XCU classification alongside of the gas classification, the XCU meaning explosion, collapse, [1683] underground. You can insure the explosion feature by adding a certain factor to the rate, which would be under the property damage portion of the rate. The underground would be another loading on the rate, and the collapse would be another loading. Usually collapse and underground are combined for a loading in the rate, but there is where they make the differentiation into the higher costs in that loading of the rate for those features of coverage.

Q. Do these costs reflect such higher rates for gas? A. These include the explosion, collapse and underground, yes, sir.

Q. Now, am I correct in my recollection of your testimony on direct that the exposure risks of the gas are considerably greater than they are for the electric operations? A. Not in the basic rates, sir, not in a normal third party liability and proper damage claims. The underwriters really make up the rate to include the explosion feature. If you will refer to this you will see they have excluded the explosion feature in the personal injury and property damage above, and they have issued a separate rate, legal liability gas explosion property damage. The reason for this is the primary carrier would have charged too much premium for it, so they have taken that explosion loading out of the rate and negotiated a lower premium on a specific basis.

Q. Let's suppose that you had a gas company and an electric [1684] company of equivalent size in the scope of operations, and they both took the personal injury and property damage insurance coverage, which company's

rate would be the higher? A. If you are speaking of the primary insurance, and the gas company intends to include explosion, collapse and underground—

Q. No, just what you have on your Exhibit 92 here, the same coverage, personal injury and property damage. A. The same coverage as that. They would be approximately the same then, sir, approximately the same. There is a slight rate differentiation, and I don't know what it is, but it is a matter of pennies.

Q. Would that rate differentiation be in favor of the gas or electric? A. I believe it is a slight favor to the electric.

Q. Would the premiums be about the same size? A. Approximately the same, yes, sir, and here I will also say you mean excluding the loading for the explosion?

Q. That is right. A. Right.

Q. Now, while I am on this I would like to ask for what term are the insurance coverages reflected on 92 for? A. These are all for one year.

Q. One year? A. Yes, sir. If they were three year contracts we divided [1685] the premium by three. If they were five year contracts we divided them by five.

Q. So that each year these insurance coverages are taken up for consideration and renewal? A. That is at the expiration of each contract, yes, sir.

Q. Well, now, you mean each one of the coverages on here is for one year? A. No. The premiums that I have indicated are one year premiums. The contract period might be longer.

Q. Which coverages on Exhibit 92 are covered by policies that extend beyond one year? A. The water heater warranty bond is a one year premium. However, the contract goes over a ten year period afterwards. It warrants the water heaters that were sold in that year over a period of ten years, but actually it is a one-year premium.

Q. You mean it is kind of an installment basis? A. That is right.

Q. The insurance company gets an opportunity to review it each year? A. No, sir, that is the one premium for it, and then you are finished with it, but the coverage extends over a period of ten years. So that the premium I have indicated here of \$10,430 under the water heater warranty bond, that actually was the premium paid within that year for all those water heaters that were leased, but the coverage on these heaters go for a [1686] period of ten years or the warranty period, you see, so that actually you could divide that premium by ten and allocate \$1,043 for a period of ten years. However, there was a premium paid in that year. So far as I was concerned that was an annual premium because next year they have to pay an annual premium on whatever heaters they lease that year and ad infinitum.

All of the other contracts are all term contracts. When I speak of term contracts I mean in excess of one year. They may be three years or whatever it should happen to be.

Under the casualty insurance, each year, even though it might be a three year contract, they would have a new experience credit. They would have a new retrospective rating plan on top of it. In other words, it would apply differently each year. So that while it is a term contract, the rating would be adjusted each year.

Q. Then the experience record in years subsequent to 1958, if they are more favorable, might cause a reduction in this particular insurance cost, is that correct? A. I don't believe I followed that, sir.

Q. Assuming that in the year subsequent to 1958, 1959 and 1960, that the experience record of the companies were much more favorable than they were in 1958, these insurance costs may not be as great as they were for 1958,

isn't that correct? A. Well, in 1958 the experience three years prior to that, it so happened it was very good. Since 1958 there have been [1687] increases in rates required by the insurance companies, so that one offsets the other. So I would say you would come out about the same way because you have the offsetting increase in rates, and as you say, if there is better experience they are going to get a better experience credit, that is self-evident, so one offsets the other. So it would be about the same, I would judge.

Q. Have the increases in the rates been applied equally to the gas and electric corporations? A. Yes, sir.

Q. Before we leave water heater warranty bonds, don't the electric companies have this type of coverage? A. No, sir.

Q. Why don't they have it? A. I don't know. They just didn't require it, I guess, and I guess they are self-insuring it. I don't know whether they do lease water heaters, by the way. I don't know whether they do that.

Q. Is there a greater risk factor for an electric water heater than there is for gas? A. In this case there was a specific reason for the water heater warranty bond. At that time they were leasing water heaters made by a new company. The water heater wasn't proven, and if this company who made the water heater failed, the water heater warranty wouldn't be any good, so this policy would pick that up, and that was the reason for it at that time.

[1688] Q. Do you know whether or not this type of coverage was being continued for the gas companies? A. I believe on renewal they were considering dropping it. As to whether they did, I don't know. This was for another reason that they might decide that.

Mr. Nowlin: May we go off the record a moment?

Hearing Examiner: Off the record.

(Discussion off the record)

Hearing Examiner: On the record.

By Mr. Nowlin:

Q. We notice in our study, Mr. Pearson, that Lynn Gas Department does not carry any water heater warranty insurance. Is that because they buy water heaters from a different source than the other gas companies? A. This I don't know. They did not carry it and presumably they did not want the coverage, and therefore we did not continue it—I mean under pro forma figures.

Q. Mr. Pearson, would you explain for us in detail, if you can, when the insurance policies are originally taken up for the personal injury and property damage insurance coverage, just how does the insurance company go about appraising the ultimate premium that will be charged for the coverage, the system coverage? Just what factors are taken into account and weighed according to each factor? A. The factors that are taken into account on the risk [1689] are prior experience. This is something the underwriters wish to see the first thing of all. Then they find out what is their spread of risk. It is all—

Q. May I stop you? In considering the prior experience, do they treat the gas separate from the electric? A. Well, they consider all factors of exposure. They have to in order to underwrite the risk properly. They may go as far as to send engineers out and inspect all of the properties before they write it. When they return, they have an area here of exposure which they now evaluate. They may make recommendations to the client that if they do certain things, improve certain things, they will write the risk. If they do further things, they will allow a credit. And then they get the exposure. It so happens that personal injury and property damage is rated on the basis of payroll times the rate applied to the classification that they have at risk. If the insurance buyer is astute he might request the insurance company to issue a retrospective rating plan. Here you need a lot of basic information, and you have an

are of savings below the normal manual premium, but you also have an area of increased premium above manual premiums in the event losses are bad. In other words, you enjoy the benefits of your this year's experience under the retrospective plan whereas under your regular experience credit you are enjoying the experience you have had for the past three years, but both of them relate to the risk of liability.

[1690] After the underwriter has judged the factors, if the client wishes to have a retrospective rating plan, he might, if the risk were valuable enough to him, offer an equity credit. He might state that under the retrospective plan the penalty would be very minor. He might request a penalty of a small company of 75 percent above manual, but in a large risk he may request only ten percent, but then the savings down below, you might be able to save for a small company, you can save probably 20 percent on a retrospective plan if your experience is good. On a larger risk you can save as much as 82 to 83 percent. It so happens that NEES has on experience almost gotten the whole credit.

Q. Do the insurance companies in determining the exposure factor look at the gas separate from the electric or individual companies separate from the total in fixing a systemwide rate? A. This is a single risk, therefore the experience rating is for the entire risk. The retrospective rating is for the entire risk, but in their underwriting they naturally look at the electric risk, they look at the gas risk, they look at the automobiles. These are all separate areas of exposure, and what is the distribution of that exposure.

Q. In that connection, could I ask you do they take up each individual company's record, say, in the gas areas and see what the gas system's past record has been? Would they take up each individual company in the electric opera-

tions and see what [1691] its record has been? A. Not specifically, no, sir.

Q. They look at the system as a whole. It is one risk as far as the insurance underwriters are concerned.

Q. Is that the primary factor taken into account by the insurance company, or does the insurance company also give a great deal of weight to the total premium that is going to be derived from system insurance? A. Well, all of it has a basis in arriving at the rate, yes, sir.

Q. I was trying to ascertain which is the most important factor, the total dollars involved or total risk involved?

A. Well, it is a hard question to answer because you have to think about both of them at the same time when you come up with the final rate.

Mr. Nowlin: Mr. Examiner, is this a good time to recess for lunch?

Hearing Examiner: We will recess at this time until two o'clock this afternoon.

(Whereupon, at 12:25 o'clock, p.m., a recess was taken until 2:00 o'clock, p.m., of the same day.)

[1692]

AFTERNOON SESSION

(2:00 p.m.)

Hearing Examiner: Proceed, gentlemen.

Whereupon,

C. W. PEARSON

resumed the stand and was further examined and testified as follows:

Cross Examination (Cont'd.)

By Mr. Nowlin:

XQ. Mr. Pearson, as I understand it, there are several separate blanket policies taken out by the NEES company

with different insurance companies covering the insurances that are reflected on Exhibit 92. Is that correct? A. That is correct.

XQ. As to the mechanics of placing that insurance, does NEES operate through one insurance company, for example, that farms out these different coverages or does NEES have to deal with the individual insurance companies? A. NEES does both. They have brokers who handle the risk who naturally have the entire market. That is, all the companies, and they request the broker to furnish them with a quotation on coverage and how it is computed. In some cases, they become involved in the actual [1693] negotiations with the insurance companies, with the broker.

XQ. But there is no central point as to one insurance company, for example, taking all of these blanket coverages, and then farming them out to the separate companies? A. No, sir.

XQ. Now, turning to Exhibit 92, and again to the personal injury and property damage items that are reflected on that exhibit—and I am not including the gas explosion liability; just the policies that are on this exhibit—from the viewpoint of the insurance company, what single factor is the most important in determining the rate and insurance premiums charged for the personal insurance property damage coverages that are reflected on Exhibit No. 92? A. There is no single factor. You have a volume of premium which is based on payrolls, times & rate.

Insofar as the coverage for the consolidated companies is concerned, this was a direct computation on that basis, and then there was a 40 percent credit allowed. The reason for the credit is of course, the past experience of the gas companies.

XQ. Well, does that mean then that the two major factors are the experience record and the volume of [1694] insurance that is involved?

There must be some single factor that plays an important part. I was trying to isolate that. A. It has to be taken as a composite risk. There is no single factor that makes a risk good or bad. There are numerous factors, past experience, the condition of the properties, safety organization; how the moral risk is, of the company. Is the company cooperative with the insurance company in any recommendations that they may make to improve the risk, insofar as liability is concerned, so there are a great many factors and not a single one of them is the factor as you suggested.

XQ. Well, now, am I correct in my memory that the rates for the personal injury and property damages on a manual basis, is subject to adjustments? A. That is usually the way they figured it, yes.

XQ. Forgetting about NEES for a moment, what is the most important factor to the insurance company, in fixing the manual rate for this type of coverage, before you get to any adjustment? A. Well, that would be the classification in the manual to which the rate applies. In other words, as I said before, this classification would be gas companies; then the entire payroll is applicable to the rate that applies to that classification.

[1695] XQ. Do I understand this previous testimony, that in referring to classification, the gas companies are in one classification and the electric companies are in a different classification? A. That is right.

XQ. Now, as to the manual rate, what rates apply to the electric and to the gas, assuming no credits? A. I cannot give you the specific rate unless I have the manual, but as I answered that question this morning, the differential in the manual rate is very nominal.

XQ. And I think I recall you said that the gas companies would probably be a little higher than the electric companies? A. About two or three cents, yes, sir. That

is prior to the application of the XCU loading which we discussed.

XQ. Prior to any adjustment? A. Yes, sir.

XQ. Now, starting with the initial manual, what discounts would apply to the gas and what discounts would apply to the electric, from the terms? A. They would fall in the same categories. There are premiums discount rate for volume of premium. There would be experience rating. There would be equity rating, and if they were large enough to carry retrospective plan, there would [1696] be the retrospective plan credits.

XQ. Well now, let me assume one point further.

In the NEES system, for example, let's assume you got the same manual rate. A. Yes, sir.

XQ. For the electric, and the same manual rate for the gas and that you got the same experience record with the electric, and for the gas rate. You have the same management. Now, which rate would be the highest on those given assumptions, either the electric part of the system or the gas part of the system? A. Treating them separately?

XQ. That is right. A. In that the electric is larger, the rate would be lesser. The gas companies being smaller, they would have a higher rate per \$100 payroll because they are a smaller company.

XQ. All things equal then, the volume of insurance, the amount involved, and so forth, is a major item in the determination of the ultimate rate? A. Oh, yes, sir.

XQ. This morning, Mr. Pearson, you gave us the experience records and the discounts applicable to the individual gas companies in the NEES system. Is that correct? [1697] A. Yes, sir.

XQ. I wonder if you could supply for the record at some later time the similar discounts for the electric companies, and so on. A. That will take a pretty terrific computation.

panies, the individual companies were computed on the basis of their individual experience and it took a considerable time to do that. If I did exactly the same thing with the individual electric companies, it would take a considerable time, but it could be done.

XQ. I thought you obtained this information from some one source. A. That is true. The insurance companies. That is right, but it will take them a considerable time to get that information together.

Mr. Vorenberg: Excuse me. Just so we can understand, you are asking for the discounts with respect to the electric company, as if each electric company were on its own?

Mr. Nowlin: What I am asking for—he gave us the information on the individual gas company. I am asking if he does not have the same information for the individual electric companies.

Mr. Vorenberg: As if each were standing alone?

Mr. Nowlin: On the same basis he gave the figures [1698] here.

Mr. Vorenberg: He gave a number of figures. I want to be clear as to what it is you are referring to.

Mr. Nowlin: These are experience discounts that he gave us this morning.

Hearing Examiner: Off the record.

(Discussion was had off the record.)

Hearing Examiner: On the record.

Mr. Vorenberg: I think there is considerable question as to whether that particular material could be derived at all. We gather it is not something that would be easily developed. I understood you to say previously that if it was a matter of great difficulty, you would not expect that computation to be sought.

Mr. Nowlin: I just assumed he got—from whatever source he got that information, the comparable source, he could obtain the information for the electric companies.

By Mr. Nowlin:

XQ. Are the discount percentages which you have supplied this morning for the individual gas companies, the figures that you used on the pro forma projection of the insurance cost, as reflected on Exhibit 92? A. For the individual companies, yes.

XQ. Then I withdraw my request for similar information for the electric companies.

[1699] Hearing Examiner: Very well.

XQ. (By Mr. Nowlin) As I understand it, Mr. Pearson, you had nothing to do with the allocation of the insurance costs among the NEES companies, is that correct? A. As per the NEES accounting for the premiums to the individual companies?

XQ. That is right. A. No, sir.

XQ. In other words, then, projecting your pro forma estimates, you simply took the allocation figures as they were supplied you by the companies? A. That is true.

XQ. Did you make any study of the allocation costs among the NEES companies? A. Yes, sir.

XQ. Did you reduce that study to writing? A. No, sir.

XQ. What was the nature of the study? A. As I stated before, starting with the top one, as I explained, on the contents of motor vehicles, we had the total number of vehicles that were insured at the time of the contract in 1958. I found out the number of vehicles for the gas companies, and got a rate per vehicle and took the number of vehicles for the gas companies, and [1700] multiplied by that rate, and came up with the premium as shown.

XQ. Well now, you would not have that same basis for the computation on the other insurance coverages? A. No, sir. Each one is different.

XQ. And did you take up and study the actual allocations of the insurance costs on these books, to determine whether or not they were properly allocated as among the different

companies? A. No; excepting by doing it in this manner that I just described.

XQ. Would you say that would be in the nature of a rough check rather than a detailed study? A. Exactly.

XQ. At the risk of repetition, I would like to inquire—other things being equal, how did the exposure risk of a gas company compare with that of an electric company?

Mr. Vorenberg: I don't understand the question.

The Witness: I don't know.

XQ. Insofar as injuries and property damage insurance is concerned? A. They would be about equivalent.

XQ. In the event of a gas explosion, in the gas operations, under which category would the company make a claim for damages under the gas explosion item or [1701] personal injury property damage item? A. Well, NEES would not make a claim at all. It would be the third parties making a claim against NEES. NEES would then report it under the legal liability gas explosion.

XQ. Exhibit 92 indicates a legal liability, as confined to property damage. A. That is true, sir.

XQ. Now, what would happen in the event of a personal injury? A. That would be insured under the personal injury portion of the coverage, which immediately follows Workmen's Compensation.

XQ. Even if it occurred to the gas employee? A. That is true, sir.

XQ. Are not the risk exposures in the gas business greater than they are in the electric business, as far as personal injury is concerned? A. No, sir.

Usually, normally, you will find more personal injury claims in the electric industry than you do in the gas industry.

XQ. Do you mean the number of claims or in the total dollars involved? A. About the same way. The total dollars [1702] involved in the electric and the gas; if it is

the type of claim that involves death, the payments would be the same, and in the electric industry, it is my opinion that there are probably more than there are in the gas.

XQ. More injuries? A. More injuries of that type, yes.

XQ. More dollar damage is done, also? A. Well, it just is about even, if it is a death claim. If the attorney makes claim against the company, it is all according to how he presents his case. Many of these cases run several hundreds of thousands of dollars and other cases only run \$10,000.

XQ. Is this testimony related to the NEES system alone?

A. No. This is in general. The general gas and electric industry.

XQ. If you had two comparable companies, the gas and electric company, your testimony is that the claims in the electric would run higher in both dollars and number than in the gas? A. Yes, sir.

XQ. Isn't it a fact, Mr. Pearson, that one gas explosion may result in many more times the dollars claims of the person injured than one incident in electric operations? [1703] A. That is true but the insurance companies have arrangements in their re-insurance treaties to take care of these larger claims, and the insured is not penalized in their rates; so that the insurance company gets back in premium all of the loss in the first year. I mean, it is over a period of years. They will get it back. There is only one thing that does occur and that is the shortage of market, because underwriters are reluctant after these occurrences, to effect that form of coverage.

XQ. Well, would not the shortage of market itself, Mr. Pearson, indicate a greater risk value? A. No. I believe it would be more conservative underwriting.

XQ. Well then it seems to follow from that, if you have more conservative underwriting, you have a fear of the risk you are taking? A. That is true.

XQ. So that the risk factor of the gas explosive must

run considerably higher than those normally applicable to the electric companies? A. On the property damage, yes.

XQ. Well now, how about personal injury? A. Personal injury, no. Property damage, yes.

XQ. Mr. Pearson, I don't know whether you have a copy of the transcript before you or not. If you [1704] do, I suggest that you look at page 1191, and in the middle of the page there, under "Answer",

"As I stated earlier in my testimony, the past loss experience in the gas industry has made the market for this liability coverage very limited and those markets available to the small gas company would undoubtedly restrict the limits of liability available to the small gas companies."

Does that mean that the past loss experience has been so great as to limit market for liability? A. We have here again the conservatism of the underwriter, after a gas occurrence, and the market for gas risk specifically is more limited than it is for the electric industry. Well—

XQ. Well, what gives rise to this conservatism? A. These exceptionally large accidents that have occurred over a period of years. I mentioned several in my testimony. The Brighton explosion; Cleveland; I think it is Reno; and they were just stupendous property damage claims and immediately after one of those claims, the underwriters become very conservative, and after a period of good experience in the gas industry, they sort of forget about it, and everything goes normal, and the market is there, until another one; then the [1705] market is limited again.

XQ. Well now, does this clearly indicate then, that the cost of the gas insurance company is not only—I mean, that this type of insurance of the gas company is not only restricted but the cost increase—the cost of the risk factor

involved? A. That is the reason they have separated this, sir. They have separated this, and put the hazardous portion of the risk under the legal liability gas explosion which is a separate placement entirely. They have eliminated that coverage from the insurance you are talking about, the personal injury and property damage that follows the Workmen's Compensation, in order that that policy will not be jeopardized by poor experience of legal liability gas explosion.

XQ. Well now—do I understand from your testimony that the coverage under property damage, appearing as Item 3, under the casualty insurance— A. Yes, sir.

XQ. —does not cover the property damage from gas explosion that is reflected under the Item 7 of that category? A. That is correct.

XQ. Well then, may I inquire if the property damage is covered under the legal liability gas [1706] explosion, why do the gas companies carry any property damage under the other category? A. Well, there are other property damage occurrences, outside of gas explosion.

XQ. Well, are they not negligible in relation to the damages incurred by gas explosion? A. In amount, do you mean?

XQ. In amount and dollar volume. A. Yes. I would presume that would be a right statement.

XQ. Well, Mr. Pearson, in view of the limited protection afforded under the property damage, reflected under Item 3 of the casualty insurance, is there any reason why the gas companies could not be self-insurers for this type of damage? A. Well, as a prudent operator, I would not recommend it, sir.

XQ. Do you have any idea of the total amount of claims that have been filed under this particular item against the gas companies? A. I have no idea but I would presume they would be limited.

XQ. Then may I inquire as to why they are included in this tremendous insurance cost of \$114,600 reflected in Column 2? [1707] A. Well, that is the actual manual rate, less the credits of 40 percent, and that is the resultant premium for that overall coverage, and no prudent operator to my mind, would operate without personal injury and property damage insurance.

XQ. Do you mean no prudent operator of NEES gas companies, having the property damage coverage under legal liability would operate without the additional property damage coverage. A. That legal liability is limited to gas explosion only. There are other property damage claims that can occur.

XQ. Do you know whether or not they do occur? A. They have occurred, yes, sir.

XQ. Do you know the extent of such? A. Yes. Tripping over a manhole cover could be a very serious claim. In fact, we have that with one of our companies now, where a woman broke her hip and she is now suing this company for some \$250,000 and that is personal injury. I am sorry. You are talking about property damage, but in the event she—I will continue it this way. If she had an expensive fur coat on, and that coat was ripped and torn and had to be replaced, that would be the property damage portion.

[1708] XQ. You would have to have a pretty unusual set of circumstances though, to really run into any material damages under Item 3, property damages, that would not be covered under the legal liability, would you not? A. No. You may think they are unusual. I could probably get you case after case of property damage: objects falling off buildings, on automobiles, just smashing the automobiles. Collapse of walls, we see that in the newspaper every day in the week, where they fall on automobiles which they may be legally liable for. That is property damage,

and these are those types of claims that they should not be without the insurance. That is for sure.

XQ. Well now, should they have insurance coverage to the extent that is reflected on this exhibit? \$1 million; \$2 million? A. Yes, sir.

XQ. What conceivable claim could arise in the gas operations, apart from property damage and explosion, that would involve claims of that amount? A. Well, let me say, give you, as we call it in the insurance industry, a for instance.

Something falls off a building, interrupts electric power to a warehouse, where they have all goods under refrigeration, so that the compressors cannot drive the refrigerating system and the amount of goods [1709] in that warehouse is destroyed.

We have a claim in our office of one of the client companies, where the electrical failure caused this disturbance, and the claim ran somewhere around \$95,000, property damage.

Now, I am relating that claim back, that if it was the gas company that had disturbed that electric line, by a falling wall, that property damage could occur.

XQ. Well now, do you know of any instances in the NEES system where the gas company's own properties might be the basis for such an accident? A. I know of none, no.

XQ. Well, is it fair to infer, Mr. Pearson, insofar as this particular item is concerned, you have the blanket policy covering the system and you feel that the other system, the gas companies, might take advantage of it, even though they may not need it? Isn't that about what it adds up to? A. No, sir. I don't know of any gas company that does not need it.

XQ. To the extent of the liability covered by this insurance? A. Yes, sir. I would not recommend otherwise.

XQ. Directing your attention, Mr. Pearson, to Exhibit 92, and again, to the item of personal injury [1710] and property damage, we note that the allocated cost to the gas companies for this coverage for 1958 is \$12,000 as compared with your pro forma, estimated cost of \$114,600, on a pro forma, combined basis for the gas company. This increase, according to our computation, amounts to an 855 percent increase. How can you explain this enormous increase in insurance cost? A. The NEES program, when it was originally issued,—it is a program of long standing; I know that it has been renewed on three-year periods for at least three renewals. Therefore, their experience rating under the risk, and they have been very fortunate in their claims, therefore, they have a very high experience credit.

XQ. By "they", whom do you mean? A. NEES. NEES. The NEES system.

XQ. NEES gas or electric? A. Both. Together. It is the NEES system. They then have a retrospective rating superimposed on some 48 percent of the manual premium which allows them a minimum of about 18 percent of that 50 percent to make an easy computation, which means they are paying 9 percent of manual.

During the year, well, 1958, there was an adjustment of the retrospective plan and all these credits were allowed.

[1711] One of the things under this program which is different from others that I have looked at, is they have superimposed on top of that, another retrospective plan, if you will, which on the basis of good experience, which the companies have been very fortunate in having, they have come down to a premium, frankly, I have not seen anything like it before; and it does look out-size, when you are looking at this sheet, but believe me, it is correct.

XQ. Well, isn't the experience of the electric companies and the gas companies almost the same insofar as the past experience is concerned? A. I would say so, yes, sir.

XQ. Well, would not that same experience record carry over to the gas companies, on a combined basis? A. I have done that. I included that credit of 40 percent which is the experience credit, sir.

XQ. Well, if that is the case, then how do you get such a tremendous increase? A. The actual manual premium for this is just slightly over \$190,000. That is, the manual as it would be computed if they placed this as a separate risk, with the insurance companies today.

XQ. Well now, do I understand that you testified before that the insurance company ordinarily looks at the gas records, and looks at the electric records? [1712] A. That is right.

XQ. If these eight companies combined on a separate basis, the insurance company would still look at the records of the gas companies? A. That is right.

XQ. Which would be the same thing as it would be if it stayed with the electric company? A. Relatively, yes.

XQ. Well then, how do you account for this tremendous increase in the cost of insurance of these gas companies, all things remaining equal? A. First of all, there is no retrospective plan applied to that \$114,600.

XQ. Why? A. Well, in our experience, we have not ever applied experience rating to a gas company risk with that small amount of premium.

XQ. Why should you not? A. Well, I think they would be gambling because the experience might warrant a serious increase in premium and in that case, they would lose quite a bit of money.

XQ. But the experience record of the gas companies in the past, indicates that the same thing should continue in the future. [1713] A. Exactly. That is one of the things that I did on the Workmen's compensation insurance. I knew the exact amount of losses and I applied a retrospective rating plan to it and it comes up with a premium that

is less than the manual premium but under the liability, I did not do it because in our work, as advisors, we have never recommended a retrospective plan under liability insurance to a gas company when the premiums are as low as they are.

XQ. Well now, if these gas companies had been in the business for the past five years with the same record—for the last ten years, with the same experience record—would you not have applied this retroactive adjustment to them? A. No. You see, they have to make their decision at the beginning of the period to take the retrospective plan. They cannot look back at their past experience and say, because of that, we are going to get a credit this year, and the year they might effect that retrospective plan, they may be penalized so greatly because of losses, that it is a gamble one way or the other. If they were separated, say, five years ago, as you have indicated, and had a retrospective plan, they would have made money on it. Yes.

XQ. Well now, since that choice has already been made for them 10 years ago, why should they not be able [1714] to continue the benefits derived from that, even though they were separated? A. Well, as I stated before, we would not recommend it. That is the way I would proceed on the situation.

XQ. Well, the question is, is that a fair basis from which to proceed? A. Yes, sir. To my mind, it is. We would not—

XQ. Is one of the big factors in this increase from \$12,000 to \$114,600, the fact that on a per books basis, there is a very large premium involved whereas on the separated-combined basis, the premium would be smaller? A. I don't believe I understand.

(The pending question was read by the reporter)

Mr. Vorenberg: Maybe it would help if you explained what you mean by per books basis.

Mr. Nowlin: The \$12,000 is a per books allocation, actually, and the \$114,600 figure is a pro forma basis, combined basis.

What I was asking about was the great disparity in these two figures. Was that due to the fact that the \$12,000 is part of a greater overall premium cost?

The Witness: Oh, yes. That is true.

[1715] XQ. (By Mr. Nowlin) Is that one of the major factors for this big difference? A. No. As I said, this \$12,000 premium that you are talking about here is under a program that has tremendous discounts because of these special retrospective plans.

XQ. That is equally applicable to both gas and electric? A. That is right; under the NEES program. That could not be carried over to the common control of all of the gas companies on a combined basis. Therefore, it was computed as I stated, on a manual basis, which premium, as I recall, was better than \$190,000 and figuring that the gas companies could probably work out in their negotiations a credit, we estimated that credit to be about 40 percent which reduces it to that \$114,600.

XQ. Well, I know you are giving an answer to the thing but I am still a bit puzzled as to why these gas companies being in the system, and their experience record and so forth, and management, whatever it is, is responsible in part for the present rates, why the insurance company in fixing a rate on a separated combined basis, would not give them the same privileges that accrue to them on the basis of their own operations? A. It is one of the whimsies of the underwriting [1716] profession; they just cannot do it. It never occurs that way.

XQ. Is that an arbitrary decision on your part, or did you check this with the insurance company to see if they can get this? A. This was checked with the insurance company.

XQ. And they state they would not give, in effect, the benefit of the retrospective adjustments? A. That is true. They would not continue the experience rating, nor would they give them the same retrospective rating plan.

XQ. Did they tell you why? A. It would not be applicable to them; the premium volume is not sufficient. Probably, if I described this retrospective plan, to the best of my ability—I am leaving out a lot—and I will take a lot from memory.

If you bear with me, I will try it.

The retrospective rating plan is a plan where, on the volume of premium and under this plan, you would get a percentage base premium.

Now, the volume of premium is listed in the manual and it is \$10,000; \$20,000; \$30,000; and so on, in multiples of actually, \$5,000 until it reaches some \$500,000 and the higher you go the lower the basic premium is.

[1717] Then to the basic premium when you compute your final figure, when you add losses which are adjusted on a percentage basis, with a slight charge for taxes, and so forth, they are added to that basic premium.

Now, the minimum premium for this policy varies as the premium increases. At the \$10,000 premium you might have a minimum premium of 85 percent and a maximum premium of 170 percent. As you go higher, that premium reduces, so at about this \$114,000 point you would have a minimum premium of approximately 70 percent of the standard premium and a maximum of somewhere around 165 percent.

Now, it is that saving of that 30 percent between the 70 and the actual manual premium that you are shooting at. This is where you can make your savings.

However, if your losses exceed that 30 percent, then you will go into the penalty of the contract and the penalty goes so high that we never recommend it for a small risk be-

cause the jeopardy of trying to save 30 percent as against a 65 percent charge, is not worth it.

It is not worth the gamble; therefore, we don't recommend it. Whereas with the larger premiums, we have a low basic of somewhere around 15 percent, to which you add losses and your minimum premium is somewhere [1718] around 25 percent, then it is worth while.

You can save 75 percent and then with the penalty of only 10 percent on top of you then it is a good gamble. You save 75 percent, as against a loss of 10 percent.

Hearing Examiner: Let us suspend for a few minutes.
[1719] By Mr. Nowlin:

XQ. Mr. Pearson, to boil it down to a nutshell to support the conclusion that the principal factor involved in this system at the present time governing these particular insurance costs stems from the total amount of premiums that is involved in the coverage? A. The basis of the underwriting is, yes, sir.

XQ. In other words, that the total premiums that the insurance company is collecting for this coverage is a very important factor? A. Tremendous.

XQ. Well, now, following that line, wouldn't the premiums for the eight companies on the combined operation be considerably smaller—I mean smaller than they would. Strike the question and start over again.

Wouldn't the premium on the combined company basis, eight company basis, on your theory be larger than the individual company premiums on an independent company basis? A. You mean comparing the consolidated companies against any one of the individual companies?

XQ. That is right. A. Well, naturally it would be, yes, sir.

XQ. If the size of the premium is so important, why does the cost of \$129,770 on an independent company base only rise 13 percent as compared with an 885 percent in-

crease over the [1720] present arrangements for the combined company arrangement? If you recall earlier I gave you percentage experience credits for the individual companies. Well, I applied those credits to the premium even though the companies under a new management might not be entitled to it. Now, they don't quite total up to an overall credit of 40 percent, which was applied to the consolidated gas companies. In other words, I think those credits ran from ten percent to forty-five percent, as I recall, and there are a lot of ten percents in there and just the one forty-five. When you average them out, I think the average comes out somewhere around 32 percent, but on a consolidated statement we use 40 percent. That is the reason you see only a small difference in those two premiums, but basically the basic premium is identical. The basic premium is identical for both computations.

XQ. Well, as I understand your testimony, Mr. Pearson, once the gas companies are combined and severed from the system they can no longer operate under these adjustments which you say they now have? A. That is right.

XQ. And they will have to start anew and by virtue of starting anew their personal injury and property damage will amount to \$114,600. Wouldn't the same thing apply to the electric companies? Wouldn't they have to start all over and make out new policies? A. No.

[1721] XQ. Why not? A. Because they would still be the NEES System, and the experience credits and the form of policy would be the same, and they have tremendous premiums involved here in the electric end of it, so that it would still support a program. There might be an infinitesimal change in the percentages speaking on this retrospective. There might be a slight change in the basic premium allocation. In other words, instead of having a base of say fifteen or twelve percent they might have thirteen or sixteen percent, you see, and that is the only place where it would

apply. So you are not increasing their premium very much. It is a very, very nominal amount, but they have always hit the minimum premium so it becomes academic.

XQ. That brings us back again to the same question as to why the electric companies should maintain the benefits of these adjustments and the gas company should not obtain these benefits. A. They are no longer the NEES System.

XQ. Let's suppose the NEES name was changed and they were transferred to a different company, does that make any difference? A. If the electric companies went out, you mean?

XQ. Suppose you transferred the electric companies to a new company and the gas companies to a new company, would that make the difference? [1722] A. They might both lose their special credits, yes, sir.

XQ. Merely by changing the name? A. No, merely by change of ownership.

Mr. Vorenberg: Are you talking about the eight electric companies going apart individually or as a group?

Mr. Nowlin: As a group, the comparable situation.

Let's suppose, Mr. Pearson, that NEES should elect to retain the gas companies and should dispose of the electric companies, would the gas companies get the benefit of these adjustments?

The Witness: I am afraid at that size premium they would be confronted with the same increase, sir.

By Mr. Nowlin:

XQ. Again, it would boil down, this premium is keyed to this whole problem then, the total premium? A. I understand that. It is the size of the premium and what retrospective plan fits into this category that I mentioned before of the volume of premium involved, you see. Now, at the point where this premium is, it is too great a gamble to take to put that retrospective plan in force, and that

would apply to NEES if NEES retained the gas companies and got rid of the electric companies. The electric companies would go out and because of the volume of premium they have, they willy-nilly would go into this retrospective plan because their premium would be so high, you see.

[1723] XQ. Mr. Pearson, another supposition, suppose that the eight gas companies combined to become under common control upon separation, I think you said the adjustments which they now have would not be available to them. Now, suppose that thereupon they acquired another large gas company, say, for example, Boston Lighting Company, would those adjustments then be available to the larger gas system? A. If the premium volume was high enough.

XQ. This whole thing is dependent upon the premium volume? A. On the standard premium, yes, sir.

XQ. Return to Exhibit 92 again, on the second column of figures, I notice that the total system coverage for the year 1958 premiums, rather, amounted to \$139,247. Do you know how that total cost compares with the year 1959 or the year 1957? A. No, sir, I do not.

Mr. Nowlin: Mr. Examiner, I have in my hand a compilation which has been prepared by the members of the staff. This compilation reflects the NEES eight gas companies actual cost of insurance per books. This data was taken from the Department of Public Utilities of Massachusetts, Account No. G-671, and it is for the years 1954 to 1959, inclusive. I would like to offer this exhibit into evidence as Division's Exhibit No. 1, subject to check for accuracy.

Hearing Examiner: Is there objection to the receipt of this exhibit?

[1724] (Division's Exhibit No. 1 was marked for identification.)

Mr. Quarles: Is this being offered by a witness who can be questioned concerning it?

Hearing Examiner: Apparently not. It was being offered subject to check as to accuracy.

Mr. Nowlin: This information was taken, Mr. Examiner, from the company's own reports filed with the Department of Public Utilities of the State of Massachusetts. I would assume the company counsel is familiar with the figures. I offer them subject to check.

Mr. Quarles: As to the accuracy of the figures and also as to what is covered by DPU Account 671, or perhaps, Mr. Nowlin could tell us what is covered by that account?

Mr. Nowlin: I would assume you would know since it is your company.

Mr. Quarles: It covers a part of the items that appear on Exhibit 92, and subject to checking the figures and to an explanation of just what it does cover as compared with the other, there is no objection to it as an exhibit.

Mr. Nowlin: Mr. Examiner, I might state that counsel for the Respondents has supplied us with a copy of a letter dated February 21, 1961, addressed to Mr. Francis H. Spencer and signed by Mr. Harry Hanson, which explains the differences in the amounts reflected on the Division's Exhibit No. 1 and those [1725] reflected on the Respondent's Exhibit No. 92, so that I would like to include the offer of this letter along with the offer of Exhibit No. 1 as 1 and 1-A here.

Hearing Examiner: Well, the letter to which you refer from Mr. Hanson, dated February 21st, will become a part of this exhibit which you are offering as Division's Exhibit 1. Subject to the right to check the accuracy of the schedule, the exhibit is admitted as Division's Exhibit No. 1.

(Division's Exhibit No. 1 was received in evidence.)

Mr. Vorenberg: I think just so the record will be clear this letter dated February 21, 1961, was a letter that had

previously been furnished to the staff at their request. Mr. Nowlin might have left the impression that it was something offered at this time. This is something that had previously been offered in response to a staff request.

Hearing Examiner: I see. Well, there is no objection to the letter being attached as a part of the exhibit.

Mr. Vorenberg: None whatsoever as long as it is understood the letter is a letter previously sent down by NEES and the figures are taken from figures prepared by the staff.

Hearing Examiner: I think it is clear on the record, and the record will so show.

Mr. Vorenberg: Mr. Hearing Examiner, the letter as it [1726] went to the staff has with it two attachments which should be part of the exhibit.

Hearing Examiner: Well, are the two attachments available?

Mr. Vorenberg: They are right here, Your Honor.

Mr. Nowlin: Yes, I would like to include those as part of the exhibit.

Hearing Examiner: The two attachments that Mr. Vorenberg mentioned will be attached to this exhibit. That will make four sheets in all. One, the schedule prepared by the staff, the letter, and the two attachments that accompanied the letter. Thus revised, the exhibit is admitted as Division's Exhibit 1.

By Mr. Nowlin:

XQ. Mr. Pearson, directing your attention to Division's Exhibit 1, you will note that the total insurance cost for the seven companies excluding Lynn reported in Account G-671 to the Department of Public Utilities of Massachusetts, indicates that such costs for 1958 are the lowest in the period 1954 through 1959. At the time of your study—at the time of making your insurance study for the EBASCO report, were you cognizant of the fact that the year 1958 total

costs were less than for any of the other years? A. No, sir.

XQ. Assuming, Mr. Pearson, that the figure \$82,361 reflected [1727] for 1958 on the Division's Exhibit is comparable to the total cost of \$139,247 reflected on Respondent's Exhibit 92, that it would follow that the basis which you use for projecting your insurance estimates were the lowest base during the five year period, 1954 through 1959, is that correct? A. It might have been. I don't know.

XQ. Can you tell me whether or not your estimated cost of \$293,751 reflected on Exhibit 92 was in any way influenced by the actual 1958 cost totalling \$139,247? A. No, the \$293,751 is based on what the program would cost on a consolidated basis.

XQ. Well, it would follow then that the difference between the \$293,751 figure and the \$139,247 figure is a maximum since the \$139,000 figure is at the low point?

Mr. Vorenberg: It seems to me the figure is inherently confusing because it involves figures that this witness does not have available to him. It is all based on an assumption.

Hearing Examiner: I will ask the witness if he knows anything about these two figures that were mentioned in the question.

Mr. Nowlin: The question is based on an assumption. If he understands the assumption he can answer the question.

Mr. Vorenberg: Will you state the assumption.

Hearing Examiner: I am not sure that the stenographer transcribed your question correctly. Let her read it again. [1728] (Question read)

Hearing Examiner: Can the witness make the assumption that he is asked to make?

The Witness: The premium for the system coverage is as indicated on my Schedule 92, \$139,247. The increase to

the \$293,751 is based on actual rates that this insurance could be procured if they were a separate system. However, I made one assumption in this computation, and that is as respects workmen's compensation insurance. There we have a premium of \$21,700. In my notes below you will notice that there is a minimum premium of \$9,800 and a maximum premium of \$66,200. If the future experience under the workmen's compensation were poorer—here we go into this retrospective area again—they could be penalized some \$45,000, so if you added \$45,000 to the \$293,000, I believe that would be considered the maximum that they could be confronted with on that basis.

Hearing Examiner: Do you want a recess? Let us have a short recess.

(Whereupon, a short recess was taken.)

By Mr. Nowlin:

XQ. Mr. Pearson, directing your attention to Respondent's Exhibit 92-A, and particularly to Item 4, comprehensive crime, it shows a total cost of \$4,925 for the year 1958. Now, directing your attention to Respondent's Exhibit 92, under comprehensive crime on a pro forma combined basis, it shows the estimated cost to be \$6,700 and on an independently owned [1729] company basis \$20,610. How do you explain this wide variance? A. The \$4,925 enjoyed by the NEES companies has lost all semblance of a rating procedure. Now, originally when a contract was issued many years ago, they then worked out the rates according to the book or the manual. Since that time, their experience having been what it is, very good, they have agreed to a renewal premium with no basis of Class A employees, Class B employees, exposure of collection agencies—none of these things are taken into consideration anymore. So they agree to write the coverage for \$4,925 annually, which, by the way, is one third of a three year premium where they have

taken advantage of the half year differential in cost for the three-year contract. When we come to the separation of the companies, we are now in a different ball park. Now, we have to make an addition of all the A employees, all the B employees, money exposures at every location, collection agents exposure, all of these then are rated according to the manual. It so happens that I have carried the experience, the maximum experience for utility companies right through into this computation, and that is the way the computation comes out, even taking advantage of the three year premium. There is no other way of computing it.

XQ. That is on the manual rate basis? A. That is right, with all the credits applicable. I have taken a thirty percent discount for utility companies. I have [1730] taken a full 37½ percent experience rating, which they are not entitled to, and it still comes out \$6,700 annually.

Mr. Nowlin: Mr. Examiner, I think that is all we have at the present time of Mr. Pearson.

Hearing Examiner: Is there any redirect at this time?

Mr. Quarles: Mr. Examiner, if we may have the privilege of reserving redirect examination of all witnesses until all have been cross examined, I think it will expedite the completion of the hearing and give us a more orderly record.

Hearing Examiner: Very well. Let that course be followed.

Mr. Quarles: That is all, sir.

[1731] Mr. Nowlin: Mr. Johnson.

Whereupon,

THOMAS JOHNSON

was recalled as a witness and having been previously duly sworn, was examined and testified as follows:

Hearing Examiner: Your name, sir.

The Witness: Thomas Johnson, sir.

Cross Examination

By Mr. Nowlin:

XQ. Mr. Johnson, will you briefly summarize the areas in which you made your study for Ebasco? A. Yes, sir. My part of the work was principally engaged in determining the accounting organizations under the pro forma independent and combined organization for treasury and accounting functions, including general accounting, customer accounting and stores accounting.

XQ. Of the total customer accounting costs, what particular items formed the major portion of those costs?

A. As far as the customer accounting costs are concerned, one of the major factors to cause that increased amount was the loss of the relationship with the electric affiliated companies of NEES.

XQ. I am talking about what particular items of the \$415,000, the particular items of cost of customer accounting. A. I see, sir. Well, there are a number of items that [1732] had to be considered in there and, as I just said previously, the loss of electric was one of the principal ones because we had lost the joint meter reading, joint customer service, joint accounts receivable, handling and such other customer accounting functions.

XQ. Let me try this again. Your customer accounting costs increase on a pro forma basis in the amount of \$415,600. What particular items comprise a major portion of that amount? A. Well, the increased cost of personnel in the customer accounting. All of them you must consider.

XQ. Meter reading? A. You must consider all of them. Meter reading, cashiering.

XQ. I know there are a bunch of items. Are there one or two items? A. I can't identify one particular one as being more important than any other one. I think they were all relatively important.

XQ. Let me try again. We will start on an actual basis, Mr. Johnson. Take a given company. What are the principal items that make up the customer accounting costs?
A. Of any given company?

XQ. Yes. A. Well, the principal items that would make it up would be meter reading, cashiering, customer service, customer [1733] collection activities, billing, customer accounting. By that I mean accounts receivable records, merchandise accounting, jobbing, order entry, anything that really affects the customer as far as getting the bill to him and getting the money back and getting the meter read.

XQ. Now, referring to those various categories, was there any one or two of those particular categories that consumed most of the cost? A. Well, as I mentioned before, I don't think that offhand I would be able to specifically identify any of them but I think that you are asking me to try to indicate the importance of whether meter reading was one of the greatest factors in the increased cost. I would say that meter reading was an important consideration. Customer service activities was a very important consideration; cashiering was an important consideration, billing was an important consideration. They all were relatively equal. I don't think you could pick out any one and say well, this is the most important one.

XQ. Well, I wasn't thinking in the atmosphere of performance. I was thinking in terms of dollar costs. A. Yes, sir. That is what I am thinking of, too, sir.

XQ. Is customer accounting costs more or less synonymous with commercial costs? A. Yes, sir, I would say to a large extent that is correct, yes, sir.

[1734] XQ. Do you know of any particular difference in those two terms? A. Well, commercial, when you say customer accounting cost, you are generally speaking, referring to commercial cost. I would say that we could, for this purpose, consider them relatively the same.

XQ. What instructions did you receive in connection with the initiation of your study of your particular phase of the Ebasco report? A. I was told to determine the effect of severance upon separating out the gas companies from the NEES system and to operate them on an independent basis. They were my initial instructions.

XQ. Did you participate in any of the negotiations leading up to the retention of Ebasco to conduct these studies? A. No, sir, I was first informed after Ebasco had been retained.

[1735] XQ. Now, I assume you got those instructions you referred to from Mr. Quig, is that right? A. I did, sir.

XQ. Did you get any instructions from any of the NEES officials as to how to conduct your study? A. I didn't get any instructions from them, sir. I wouldn't call them instructions. They cooperated with me in every respect.

XQ. Did you show any of the NEES officials the results of your studies during the course thereof? A. During the course of the study I was in constant communication with NEES personnel as well as other Ebasco personnel.

XQ. Did you discuss and request their opinion as to the conclusion that you reached on these individual studies? A. Yes, sir, I would say that I did, sir.

XQ. And is it correct to assume that this did not reflect your own independent analysis of these several costs? A. Oh, I think that it did. It represents my independent analysis and my judgment, but I cooperated with them and they cooperated with me, and it was a rather joint effort in that they assembled information as I requested it. I analyzed it and so forth.

XQ. Did you make any adjustments in your estimates by virtue of conferences with NEES officials? [1736]

A. We did make adjustments, yes, sir.

XQ. In other words, the results of your study were brought into conformity to coincide with the views of the

NEES officials, is that correct? A. No, sir, that is not correct.

XQ. Well, then what did occur at these conferences? A. We discussed the personnel requirements, the procedures that were in effect in the field, the policies, the practices and so forth, but absolutely I did not conform to anything that they developed.

XQ. Were there any differences of opinion in the course of your study by you and NEES officials? A. Yes, sir, there were some differences of opinion.

XQ. Well, how were those differences resolved? A. We discussed them with the treasury representatives in the field and with the persons in Boston.

XQ. Well, did they accede to your statements or did you accede to their views? A. In some cases it was one way and in some the other way depending upon the circumstances. Sometimes I was not fully informed and didn't realize what was going on. Other times they felt I contributed some information that they were not apprised of.

XQ. In other words, you didn't make an independent study on your own and come up with the result and say this is it? [1737] A. I can't quite agree with that, sir, because I feel that I establish the basis for collecting and analysis of the data. I feel that I established the framework of these new organizational structures in the accounting areas, and I had a great part in that. I say I can't answer the question the way you phrase it to me.

XQ. Didn't they supply you with the working material that you needed to reach your conclusions? A. Oh, yes, sir, they furnished me with any information that I requested of them.

XQ. Did they supply you with any information that you didn't request? A. Yes, sure. I received a volume of information.

XQ. For what purpose did you confer with the NEES

officials on the results of certain aspects of your report?

A. That is a pretty general question. I think that perhaps the initial discussions with the NEES personnel was to obtain a good familiarity of the NEES system and the relationship, and then further discussions would be as we were constructing the new organization in discussing the organizational requirements, the procedures, the policies, and the practices in the various companies and the relationship between the various companies, the relationship to the service company. A multitude of things were up for discussion at all times.

XQ. Isn't it a fact, Mr. Johnson, that one of the [1738] reasons for your conferences with these officials regarding the results of the study was to be sure that you didn't get too far out of line with their ideas? A. No, sir, absolutely not, sir.

XQ. Well, then why would you talk to them at all? If they supplied you with the working papers why didn't you reach your own independent conclusions? A. The pro forma organizations that are shown here in these reports do reflect my opinion. We are in agreement with them, with NEES personnel, but they very definitely reflect my opinion.

XQ. Well, did you on your own make any independent study or evaluation of the customer accounting cost estimated to be incurred on an independent basis or independent company basis or combined company basis? A. Yes, I did. I visited the field locations.

Mr. Nowlin: Read the question back?

(Question read.)

By Mr. Nowlin:

XQ. Did you on your own make an independent study apart from anybody else? A. Yes, I did.

[1739] Hearing Examiner: Now, the witness started to make an explanation. If he wants to make that explanation,

I think he is entitled to make it. Do you care to add anything to that, sir?

The Witness: No, I think that is all right, sir.

Thank you.

By Mr. Nowlin:

XQ. Did the NEES personnel make any studies of their own of the customer accounting cost on a pro forma basis? A. Not to my knowledge. They did not go off and prepare one study and we prepared another, no, sir, they did not, not to my knowledge.

XQ. Then where did the difference of opinion come from in your conferences? A. When we were establishing the personnel requirements they perhaps would feel that the local treasury organization would feel perhaps they needed additional personnel. I maybe would feel they required a lesser amount. In some cases, I felt they were under manning the organizations. We were manning them at a minimum in that we could have used more personnel. Actually it was for the most part, it involved the number of personnel that would be involved in the independent organizations.

XQ. Didn't that, in effect, then, represent a joint study by you and the NEES officials? [1740] A. Yes, sir, there was a joint study.

XQ. And a joint conclusion as a result of those studies? A. Yes, sir. They are very familiar with and they agree with the results which we have attained here.

Hearing Examiner: Well, he asked you two or three questions in one. Was this a joint conclusion? That is the last one he asked you. What was your reply to that?

The Witness: Yes, I say that this is very definitely a joint study and a joint conclusion, yes, sir.

By Mr. Nowlin:

XQ. Was it your understanding, Mr. Johnson, that you were to proceed to make this report as an independent

evaluation of these costs, apart from anybody's advice or solicitation? A. No, sir, that was not my understanding. No, sir.

XQ. Was it your understanding from the beginning then this was to be a joint study by you and NEES officials?

A. By Ebasco and the NEES officials, the NEES personnel.

XQ. If I am correct in my understanding of your testimony, there appears to be conflicting statements as to whether or not this was an independent study made by you or a joint study made in concert with the officials of NEES. Could you clarify that for me? A. It would have been impossible for me to assemble all of this data and do this solely by myself. That would be [1741] a physical impossibility with the number of companies involved and the number of physical locations involved. It was definitely, I would say, sir, a joint study, but this is an independent evaluation on my part. In other words, I say that these pro forma organizations in here, that independently in my judgment they are required to operate these companies on an independent basis.

XQ. You reached that judgment after reconciling differences of opinion with these officials? A. No, we didn't reconcile them and they were not NEES officials, sir. You could call them officials. Certainly not in the upper management level. It was mostly with Treasury employees in the field who were closest to the work, who were more familiar with the work.

Hearing Examiner: Did you do this, at some point in your discussion, reject some of their ideas and accept some of their ideas? Is that a summary of the procedure?

The Witness: That is right, sir.

By Mr. Nowlin:

XQ. When you came to a tentative conclusion as to the need for a certain number of personnel in a particular department, did you check that conclusion with any NEES

officials or employees, if you want to call them that, to get their views on it? A. I reviewed it with the Assistant Treasury personnel [1742] in the field.

XQ. Why did you do that? A. Because I wanted to be sure that I had not omitted any important factor that I should have considered. I mean, again this being such a vast system, I had not worked in the NEES system before and there could certainly have been something that I could have overlooked that would have been most important to the study.

XQ. Suppose you came up to a conclusion, a tentative view that 11 employees were needed and the Assistant Treasurer said that 15 employees were needed. Which view prevailed? A. Depending on what the circumstances were and what the reasons were and what my reasons were for the difference of the opinion, sir.

XQ. Do I understand again or is it your understanding of your instructions from Mr. Quig that you were to proceed to make this study on the basis of the joint effort of yourself and NEES officials rather than to make an independent study of your own, apart from any suggestions or advice from NEES officials? A. Mr. Quig told me what my responsibility was in this particular project and he informed me of the NEES personnel and the assistance that they would render me during the course of the study and I did not at any time think that the study would be something, as I do frequently in other companies, [1743] go in completely on my own, assemble all my own information and all my facts and come up with a report or a conclusion and submit it to the management, without any discussion whatsoever.

XQ. Mr. Quig didn't tell you to go out on your own and make an independent appraisal of these costs, apart from any consultations with the NEES officials? A. Oh, Mr. Quig informed me though I should exercise my judgment

and determine in my own mind as to whether or not the pro forma organizations would be adequate to perform the work. He didn't tell me to just go along—certainly nothing like that.

XQ. In other words, he didn't instruct you to try and make an independent appraisal on your own as to the results of the report? A. Maybe it is a question of words here.

XQ. Let me get this, Mr. Johnson: I understand there are two phases of the study you made. One of them is the phase of accumulating the material; is that correct? A. Yes.

XQ. The NEES officials, of course, are the ones who are in the position to supply you with the material. Now once you were given that material, was it your understanding from the instruction from Mr. Quig you were to take that material and come up with your own independent conclusion as to what [1744] was required? A. Not necessarily, no. I would say that when we constructed the pro forma organizations that I was to be definitely satisfied in my mind that they were adequate and that I was to review them with the NEES officials, with the NEES personnel. I did review it, as I say, with the officials, with the NEES personnel, to determine if there were any serious faults within those organizations. I could have overstaffed them or understaffed them. I could have made errors.

XQ. So that your section of this report doesn't really reflect your own independent judgment as to what the requirements of these companies would be? A. Sections of that report, sir, do reflect my judgment and my independent judgment as far as the adequacy of the personnel requirements are concerned. They do that, sir.

XQ. Don't they also reflect a meeting of the minds between yourself and NEES officials on personnel? A. The NEES people are in agreement. I don't think it was a

question of meeting of the minds. They are in agreement that they, too, feel that they are adequate.

XQ. Wasn't the whole purpose, Mr. Johnson, of your meeting with the NEES officials to check the results on these interim conclusions for the purpose of having a meeting of minds with the NEES officials? [1745] A. The words "meeting of the minds", no. We were trying to determine and be sure that the pro forma organizations would perform for these independent organizations. We wanted to be certain that they would perform.

XQ. As an expert, wouldn't you know what the requirements of these companies would be without checking with anybody in the NEES system? A. Not until I was fully familiar with their policies, practices, and procedures, I would not.

XQ. Well, let's assume that you became familiar with the policies and procedures and so forth. Wouldn't you, as an expert, know what kind of an organizational setup the company should have? A. There could be other factors that would come in that they would apprise me of that perhaps I would not be familiar with. For example, it may be a minor point in your mind and I think it is important and that is the vacation area up in the New England area. That certainly places a different workload on employees than if you are in a rather rural area or metropolitan area and things like that. All of those things were important in making up these manpower requirements.

XQ. Well, that comes under the head of obtaining information upon which to base a conclusion, doesn't it? A. That is true, yes, sir.

[1746] XQ. Once you are supplied with the information from which to reach a conclusion, you as an expert ought to be able to reach your own independent conclusion without checking with anybody else, shouldn't you? A. I did reach my independent conclusion.

XQ. You tell me you kept checking with the NEES officials? A. I didn't say I kept checking with them, no, sir. I said they reviewed these organizations. I didn't keep checking with them, no, sir.

XQ. Let's take another branch. Did you, on your own, make any independent evaluation or study of the customer accounting actual cost and methods of operation of the NEES system before you undertook to prepare any kind of study for the Ebasco report? A. Yes, that was the first thing I did. The first thing I did was to obtain the information as to how the NEES system was organized and operated at that time during the year 1958.

XQ. I am going further than that. I am going further to see whether or not you made any independent appraisal to determine whether or not any of their activities in the customer accounting or any other area in your particular study should be supplemented or curtailed before you started on your Ebasco report? [1747] A. Yes, sir, absolutely I did that.

XQ. Was that reduced to writing? A. Pardon me?

XQ. Was that reduced to writing? A. I have notes.

Hearing Examiner: The witness twice has tried to relate that he visited someplace or some body, some area. What place did you visit?

The Witness: When the study first went underway, I visited the field locations and discussed the operations with the Treasury personnel in the field in the various district Treasury organizations that I described in my direct testimony.

Mr. Nowlin: I don't think we have a meeting of the minds of it ordinarily as an expert you would.

Hearing Examiner: Well, now, Mr. Nowlin, you asked this witness what he did and he started to tell you before he went into any conference or meeting with NEES of-

fcials he went out into these areas and got this information. Is that correct, Mr. Johnson?

The Witness: Yes, sir, I went out, sir, and I discussed the operations in the field. The personnel requirements I discussed and I verified information that has been given to me, which I had requested from the NEES personnel. I verified it from an independent point of view.

[1748] Mr. Nowlin: I don't think, Mr. Examiner, either you or the witness understood my question. I asked did he make an independent study to determine whether or not the present NEES system customer operations should be supplemented or curtailed, not just a visit to acquaint himself with the operation, but did he make a study to determine whether or not they were properly operated or whether they should be supplemented or curtailed.

Hearing Examiner: Well, we will pick it up there and ask the question over again. I thought this record ought to reflect that this witness went out into the field and made investigations and he tried two or three times and he never did get to finish it because he was interrupted.

Mr. Nowlin: It does, Mr. Examiner, and the record already—I am not interested in those.

Hearing Examiner: I will let you take over the examination and keep still for a moment anyhow.

By Mr. Nowlin:

XQ. Merely again, what I am trying to do is before you started to make this study for NEES, you supposedly got acquainted with these departments, the operations and so forth. I assume that is so. I am asking one step further: did you make any evaluation or study, actual study, of these various functions of which you were charged to look into to determine whether any of those functions should be supplemented or curtailed. [1749] A. Yes, sir, I did and I rather, if I remember correctly, I think I have that in my direct testimony. I reviewed their policies and their

procedures to see if there was anything above what was actually required to make it function on a normal level. Is that what you mean, sir?

XQ. No, no. Let me take one specific. Did you make any study, for example, of the customer billing, the actual cost of customer billing, as to how these billings were carried on and conducted and so forth to determine whether or not the present service was adequate or whether it needed to be supplemented. A. My opinion is customer accounting activities and I am including now the whole round of them, the billing, the meter reading and the customer service, all of them were carried on in an efficient manner, adequate manner and they rendered good service to customers.

XQ. Was that a conclusion you reached after you made your study or before you started your study? A. That has to be a conclusion that I made after my study.

XQ. Well, then, the answer to the question I asked you didn't make a study then primarily to the beginning of your actual study for Ebasco?

Mr. Vorenberg: Mr. Examiner, I think the word "study" is being thrown around here in a way that is at least [1750] confusing to me and it must be confusing to the witness.

Mr. Nowlin: I asked him if he made a study and reduced it to writing.

Mr. Vorenberg: What study is that?

Hearing Examiner: Wouldn't "report" be a better word than "study"?

Mr. Nowlin: I will substitute "report". He has to make a study in order to make a report.

Hearing Examiner: All right.

The Witness: During the course of the time I was visiting these locations and in my own determination of the requirements of the system as they operated during the year 1958, I certainly made notes. I certainly had the per-

sonnel requirements as they were constituted under the NEES system. I checked their validity by discussing it not only with the Assistant Treasurer and the supervisors, but I even discussed it with clerical personnel. These studies were just what they were doing and they gave me a good working knowledge so that I was then able to work on the pro forma organizations for the independent operation.

By Mr. Nowlin:

XQ. You did not make any active check of the actual operations to determine whether or not they needed to be curtailed or supplemented? A. Oh, I did, sir, and I say that I felt and I think [1751] that I have answered the question before. I am really trying to answer the question. In my mind the NEES system, as I found—

Hearing Examiner: You have answered the question he propounded to you. Ask another question now, Mr. Nowlin.

By Mr. Nowlin:

XQ. You said you did. I ask you if those studies were reduced to writing in report form. In other words, did you go into this—take, for example, Wachuset—did you go in there to the Accounting Division and make an independent review and say we have got 14 meter readers, I think they only need 12, or they have got 14 and I think they need 16. Did you make any study like that? A. When I made the first trip around and went to the various offices and had the information and so forth, I didn't try to project any pro forma organization for any of the gas companies; I waited until I had a full familiarity with the entire system prior to the time the pro forma organizations were established. Again I am certain that this is in my direct testimony. I think I described in some detail how I went about my work and what I am saying now I am repeating as to what I said before in the direct testimony to a large extent.

Mr. Nowlin: I still insist, Mr. Examiner, that I am try-

ing to ascertain one simple point. It is obvious that from the previous record that you made all these steps, [1752] what you did and who you visited and so forth and I am trying to ascertain—

Hearing Examiner: Ask the witness to describe what he did.

Mr. Nowlin: That is all in the record, Mr. Examiner. I am trying to get him to describe if he did anything before he did what he said he did.

Hearing Examiner: Ask him that question then and see what he says.

Mr. Nowlin: I have asked that four or five different ways. I have tried to explain that it seemed logical in order to make an independent evaluation and study and reduce that to writing of the actual operations before you start on your projected operations, and I am just trying to simply ascertain if you did that. Now I have gathered from your testimony that what you did is you went out, as you stated on direct, made all these studies, made visits and studies and accumulated a lot of information. Then you came up with your estimates. I am trying to go ahead of that and say did you reach any independent conclusion as to whether these companies were properly operated or should be supplemented or reduced before you started to make your pro forma study. It seems to me simple. I don't know whether I am confusing you or not.

The Witness: Prior to the time that we made up the pro forma organizations, I was satisfied in my mind that [1753] the NEES system, as far as the customer accounting functions were concerned, were being carried on in an effective and efficient manner and I saw no reason to expand them or to curtail them.

By Mr. Nowlin:

XQ. But did you not make any written report or study for that particular purpose? A. No, sir, I did not make

a written report for that. No, I took notes and there was no reason for me to make a written report.

XQ. That is what I have been trying to establish here for sometime. A. Well, I am sorry.

Mr. Vorenberg: May I ask, if you are moving into a new area, may I ask one clarifying question relating to Mr. Johnson's relationship to the preparation of the study with NEES personnel? Was there any instance in the preparation of the pro forma organizations where you included in the pro forma organization the judgment with which you were not satisfied because of the fact the NEES personnel had urged it upon you?

I will restate that question, if you want. Was there any case where you accepted a judgment with which you were not yourself satisfied?

The Witness: No. They were all resolved prior to [1754] the time that the report was finalized.

Mr. Vorenberg: That isn't the question. What I am asking is whether there is included in the conclusions of the study any judgments as to which you were not personally satisfied.

The Witness: No, there are no judgments in there that I was not personally satisfied with, absolutely not.

By Mr. Nowlin:

XQ. Now, Mr. Johnson, after you had made your study, I assume you prepared some sort of or some form of a report for submission to Mr. Quig and the other associates in Ebasco. A. I would prepare my part of it, yes, sir.

XQ. You mean you would prepare the combined report on these different functions or you would prepare— A. Initially I prepared the effect of severance on an independent basis, drafted my report, which was compiled then with the other areas of the work which were performed by other Ebasco personnel until we came up with the draft of the report initially.

XQ. For example, on the section of general accounting, did you make a study of that and come up with a preliminary report of your views on the general accounting phase of your study? A. Yes, sir.

[1755] XQ. Well, did you make a report on, an interim report on your conclusions as to the customer accounting phase? A. These are all draft reports after I had finished that initial phase of the work and I started to construct the pro forma for all the general areas, stores, customer accounting and the things contained in the report in the draft form.

XQ. I assume at one phase of your study you had a prime report of your conclusions respecting the field in which you were operating for submission to Ebasco officials, is that right? A. That is right, sir.

XQ. Do you have a copy of that preliminary report that you prepared available? A. No, sir, I do not have one here.

XQ. Do you know how the recommendations which you came up with in your preliminary report compared with the final results that are reflected in the Ebasco report? A. I don't think that there is, if I remember properly, and correctly, I don't think we have changed any of the manpower requirements in any of the areas—general, customer or stores accounts. They stood up all the way through.

XQ. Prior to the submission of your preliminary report to the Ebasco officials, I believe you testified that you checked the items with these officials. A. I reviewed them with the NEES treasury personnel, [1756] yes, sir.

XQ. Now, after you had submitted your preliminary report to the Ebasco officials, what conferences were held between you and Ebasco officials and NEES with respect to reaching the ultimate determinations that were reflected in this report? A. Oh, we had many discussions on it. I discussed the personnel requirements with members within my own department of Ebasco. I discussed it with Mr. Quig

and other Ebasco personnel and then after we had that draft together, I think we then submitted it to the NEES peoples for review and by that time we were just about ready to go to press and come on up with the initial reports. Of course you always have minor changes in verbiage and things like that, but there were no significant changes from the original draft.

XQ. In the process of reaching your ultimate conclusions were joint conferences had between you and NEES officials and your associates in Ebasco with a view to determining the ultimate figure that you would arrive at? A. No, sir, I would not say that. No, we discussed with them various areas that came up where we either needed additional information. No, actually there was no discussion of the loss of economies due to severance until after the first draft was completely prepared. That was the first time anybody knew about it because you had to assemble all this data [1757] together before you really knew where you were.

XQ. Was there any changes in your report, the first draft of your report and the final draft of the report? A. Well, I tried to answer that before. I don't feel that there were any changes in any of the accounting areas from the drafts that I originally prepared through this initial report. If they were, they had to be very, very insignificant or I would have remembered them.

XQ. Do you know whether or not such changes have been made with decreases or increases? A. I say I don't think there were any. I think the personnel requirements were just about the same as in the original drafts.

Hearing Examiner: Earlier in the day we discussed progress and I think we reached an understanding that we would try 9:30 in the morning and we will recess at this point until 9:30 tomorrow morning.

(Whereupon, at 4:45 o'clock p.m., the hearing re-

cessed until 9:30 o'clock a.m., Thursday, April 7, 1961.)

[1759]

PROCEEDINGS

Hearing Examiner: Let us come to order.

THOMAS JOHNSON

was recalled as a witness, was examined, and testified as follows:

Cross Examination—Cont'd.

By Mr. Nowlin:

XQ. Mr. Johnson, in general, what particular phase of a company's operations does customer accounting cover?

A. Customer accounting covers the meter reading function, the billing function, the handling of the accounts receivable, the cashing function, credit function, collections, customer service and merchandise billing and jobbing work.

XQ. Then, in short, that customer accounting function really is to serve the customer, isn't that correct? A. That is right.

XQ. It is a function directly related to servicing a customer rather than servicing the mains—the gas mains and other functions of the Company? A. Yes, sir. That is right.

XQ. Now, in the course of your study and in reaching your final conclusion, what particular item or items did you accord unusual significance? A. Pardon?

Hearing Examiner: Would the reporter please read the question?

[1760] (The pending question was read by the reporter).

Mr. Vorenberg: I don't understand that question.

Mr. Nowlin: Strike the question and let me repeat it.

By Mr. Nowlin:

XQ. In formulating your estimates of the severance cost attributable to the customer accounting, did you pay particular attention to revenues obtained from that particular phase of the Company's operation or to the number of customers served? A. The number of customers served was of more significance and more importance than the revenues derived from those customers.

XQ. You are dealing with customers and that was your principal guide for determining your overall cost? A. That was one of the guides, sir.

XQ. What other guides were there? A. I had to take into consideration the type of territory, the peculiarities or the circumstances within each company involved.

XQ. That still all stems back to servicing the customer? A. Yes, sir.

XQ. So that the customer is your main consideration? A. No, sir, not my main consideration. As I say, I also had to consider the geographical setup of the Company, [1761] the territory served, other considerations.

XQ. Is it fair to say that, in general, a total customer accounting cost of any particular company, is able to be determined by the number of customers served by the Company? A. Yes, sir. If you qualify that with another important part of the cost which would be the number of offices within that particular company, the type of territory—

XQ. I am assuming you have one company, that you have the same territory? A. Yes, sir, but in addition to customers, as I say—if one company would have three or four offices and other company one office, there is a difference in the way you would handle those two different types of companies.

XQ. Do I understand it then, that in the formulation of

your estimates of service cost, you gave little attention to the matter of revenue derived from operations? A. That is right, sir. I was not concerned too much with revenues.

XQ. What do you think is the fairest method of allocating the customer accounting cost?

Mr. Vorenberg: Between whom?

Mr. Nowlin: Between—first of all just generally allocating between joint operations, electric-gas operations?

The Witness: The number of customers served would be a good measure of determining fairness of allocation.

[1762] By Mr. Nowlin:

XQ. What was the method which you used in formulating your study? A. I didn't allocate any cost.

XQ. Well, did you make any study of the allocation of cost—the actual allocation cost between the NEES companies in 1958? A. Yes, sir, I did.

XQ. Was that a detailed study or just an observation? A. It was in sufficient depth for me to reach a sound conclusion.

XQ. And, I believe you have testified before that in your opinion, the method of allocating cost between the NEES System companies in 1958 was fair. Is that correct? A. Yes, sir.

XQ. Do you know, Mr. Johnson, the basis that the NEES companies used for allocating a joint customer accounting cost incurred during 1958, between the gas and electric companies? A. Yes, sir.

XQ. Where there were joint operations? A. I was familiar with the methods which they used.

XQ. Do you know what method they used? A. Yes, sir.

XQ. What was that method? [1763] A. I would say that predominantly, it was based on the number of customers.

XQ. Do you know what other factors were involved in addition to the number of customers? A. Occasionally, allocations would be based on a weighted average of gross

revenues and the number of customers or meters in service.

XQ. As I understand it, you thought you thought that the allocation was fair, but that you thought the fairest basis for allocating such cost was on the basis of customers. Is that right? A. Yes, I think that a fair basis, and a good basis.

XQ. Well, how can you reconcile your views that they should be allocated on the per customer basis with your statements that the allocations of revenue and a customer basis were fair? A. I said that predominantly they were done on a meter or a customer basis. In other allocations, they were done on a revenue weighted gross revenue and meter in service or number of customers basis. In other words, taking the two into consideration with customer accountings, basically and mainly the allocation was based on the number of customers or the number of meters in service.

XQ. Do you think that the instances in which the NEES companies allocated these costs on the basis of customers [1764] and revenues was fair? Yes, sir, in my opinion it was fair.

XQ. Can you tell me what revenues have to do with the actual cost of servicing a customer? A. I didn't say they used the revenues. I said, basically and mainly, it was based on the number of meters and the number of customers.

XQ. What justification is there for using revenues at all for allocating costs between operations? A. Sometimes, you would use a combination of revenues and meters, particularly, maybe, perhaps, when you are allocating the cost of administrative and executive personnel of treasury and accounting operations.

XQ. I am talking about customer accounting now. A. Again, I go back and I say that basically, and mainly and I can't, at the moment, think of any case where revenues

were used as a basis for allocating the customer accounting cost. It is possible they were but I can't remember.

XQ. Mr. Johnson, I would like to direct your attention to Exhibit 58(a), pages 605 and 611. Now, if you will look at the table at the top of page 605 and notice the Total Gas Customers, 8,023. See that figure? A. Yes.

XQ. And, if you look—turn over to 611—Total Customer [1765] Accounting Cost for \$15,509. That is Customer Accounting Payroll Cost. Do you see that figure? A. Yes, sir.

XQ. Now, turn back to page 605 and notice that the electric customers of Northampton Electric total 9,512. A. Yes, sir.

XQ. And the total—and turn to page 1111, Exhibit 58(b) for the Payroll-Customers Payroll Accounting Cost of Northampton Electric, and that is reflected on page 1111, and the total is \$34,200. Is that correct? A. Yes, sir.

XQ. I would like to correct that—instead of the \$15,509 figure, as the Customer Accounting Payroll Cost of Northampton Gas, change that figure to \$17,000, which appears on Page 626. According to our computations, the per customer cost for 1958 of Northampton Gas amounted to \$2.12 as compared with \$3.59 for Northampton Electric. Subject to check, I would like for you to check those figures, This difference per customer cost is equivalent to 12 percent greater cost for the electric company than for the gas company. Is this wide disparity in the allocation fair? A. You have picked here an unusual case. As far as the Northampton operation is concerned, the overall allocation of accounting cost between the electric and the gas works itself out. We have some offsets occasionally. This happens [1766] to be one of them. Some of the people in the General Accounting Operation at Northampton did perform customer accounting work.

XQ. You mean they performed these services even though

the payroll costs were not shown on their customer accounting? A. In this particular instance, that was the case.

XQ. Which personnel would you point to as performing those services? A. They assisted in performing some customer accounting work—it would be the Senior Clerk and the Clerical Assistant.

XQ. How much of their salaries would be allocable to customer accounting? A. I don't think you can pinpoint it that fine, sir.

XQ. Are those the only two persons in the Northampton organization that performed customer accounting work? A. No. When you come into companies of this size, you must have flexibility within the various accounting groups.

XQ. Do any of the personnel in General Accounting in the Electric System do any customer accounting work in Northampton Electric Company? A. It is possible they could assist at times, depending on the circumstances.

XQ. Do you know whether or not they do? A. I don't remember off hand, sir.

[1767] XQ. Is there anything in the Ebasco report to substantiate the statement you have just given regarding the joint services? A. It is my recollection you will not find a statement in there that General Accounting personnel at Northampton assist in customer accounting work. I don't think you will find that in there, no, sir.

XQ. If personnel of each of the two companies in the General Accounting Department did work in the Customer Accounting, then that would equalize both sides, wouldn't it? A. Well, the important thing here is as to whether or not the Gas Company is bearing its proper share of accounting costs.

XQ. That is what I am after. A. And I say very definitely it does—the Gas Company does.

XQ. I am asking you how you can reach that conclusion in the face of these figures I just gave you. A. Because you just can't take a narrow segment such as that. You must look at it from an overall point of view. We should look at it from a District Treasury point of view, considering all of the operations.

XQ. From an overall point of view, what are your customer accounting figures? A. Northampton Electric bore about 67 percent of the [1768] payroll of customer accounting personnel; Northampton Gas about 48 percent—67 and 33.

XQ. In arriving at those percentages, what cost figures did you use? A. The eight people that are on the payroll of the Electric Company and the five people—and the four people that are shown on page 611, at the January 1, 1959 salary of \$15,509.

XQ. What dollar figure did you use for Electric? A. \$31,300.

XQ. Is it your testimony, then, that these dollar amounts, \$31,300 and \$15,509, are the customer accounting costs for the electric and gas? A. That is the cost of personnel that are assigned to the customer accounting area.

XQ. I think you have indicated that there were two other members of the General Accounting Department that were doing customer accounting work, in the Gas. By reason thereof, would you make any adjustment to the \$15,509 dollar figure for the Gas? A. Would I make any adjustment?

XQ. Yes? A. No, sir.

XQ. Why not? A. Because from an overall point of view of the [1769] Accounting allocations between Northampton Electric and Northampton Gas, you would take into consideration General Accounting, Customer Accounting, Stores Accounting and the Central District Treasury Organization. There is a fair allocation of the total overall

accounting cost to the Northampton Gas Company and to the Northampton Electric Company.

XQ. Could you give us the total figure for the Accounting Department concerning which you said represented a fair allocation? A. Northampton Electric was approximately \$82,000. This is January 1, 1959 level, excluding fringe benefits and payroll taxes. Northampton Gas—

XQ. Where did you get that figure? Is that reflected in the Ebasco report? A. In various sections of it. It could be assembled. I summarized it myself in various areas.

XQ. What are the elements that go into this \$82,000 figure? A. Well, the cost of the Administrative and Staff Treasury personnel.

XQ. Where does that appear? A. Page 610.

XQ. That is 58(a)? A. Yes, sir.

XQ. That is the Gas Company. [1770] A. Do you want the Electric first?

XQ. Yes, sir. A. All right, sir. Page 1108 of 58(b).

XQ. What figure did you take off there? A. Well, if you take \$3,000 for the Assistant Treasurer, \$1200 for the Secretary, \$1700 for the Insurance Clerk, \$1100 for the Secretary. We have a Chief Accountant, \$5,000, Stenographer, Senior, \$3600. They are the ones.

XQ. What do those add up to, Mr. Johnson? A. I have to add it. That is about \$15,600.

XQ. Now, can you give us the rest of the figures that make up the \$82,000? A. The General Accounting would be \$21,900.

XQ. Where did you get that figure from? A. From Page 1110.

XQ. What work did the Payroll Clerk, Senior of the Electric Company do for the Gas Company? A. Assisted in the Payroll Operation for Northampton Electric and Northampton Gas, with the assistance of the Payroll

Clerk, Junior, who was on the payroll of the Northampton Gas Company.

XQ. Before we go any further, could you give us the comparable figure for the—the electric figure is \$82,000, will you give us the comparable figure for the Gas Company? A. \$61,000.

[1771] XQ. Now, can you point to the sources from which you obtained that figure?

Mr. Vorenberg: Do I understand, Mr. Nowlin, that you don't want him to complete the computation of where you get the electric figures? You have asked him to interrupt that. I thought the record should be clear that you asked him to change courses.

By Mr. Nowlin:

XQ. Yes. We may want to come back to it. A. Well, it would be page 610. Now, we are talking about the Gas?

XQ. Right. Stopping for the moment, Mr. Johnson, on these detail figures and referring back to the totals—we have \$82,000 cost for the electric and \$61,000 cost for the Gas. According to your computations, the electric gives out at \$8.06 per customer as compared to \$7.60 per customer for the gas. How do you justify this difference? A. We are comparing apples and oranges. Really, there is just no way of—you take all of these costs and put that on a customer basis. You can't do that and come up with a figure that can be comparable to anything.

XQ. How can you possibly determine that these allocations are fair, if you can't support the basis of it? A. I can support the basis.

XQ. On an overall basis? [1772] A. Yes, absolutely.

XQ. We are taking this on a particular customer basis, A. Northampton Gas and Northampton Electric, as I previously mentioned, according to the functional group that we see here, and, by the way, when we look at this, we

see a janitor under customer accounting in this functional grouping and that janitor certainly has nothing to do with customer accounting. He doesn't read meters and doesn't bill.

XQ. Why was he listed there, then? A. Because he is there for administration and supervision. Throughout the entire report you will see janitorial services frequently included in the customer accounting function.

XQ. Now, Mr. Johnson, how can we possibly check the accuracy of any of these figures if we can't get some uniformity in the presentation of figures? A. These figures are accurate, sir.

XQ. I said uniformity. How can we check them unless we know that the figures under certain categories are realistic? A. I don't understand—checking and making comparisons.

XQ. In order to determine—in other words, if you don't put personnel in uniform categories, how can we possibly check these items out? A. These are functional groupings, sir.

[1773] XQ. I think you have just stated that the janitor doesn't function as a customer accounting personnel? A. That is right, sir. I said that. That is correct.

XQ. Why did you group the janitor with that personnel? A. For administration and supervision. There was no point in a company of this size to establish a Building Service Group with one janitor.

XQ. Mr. Johnson, we are interested in getting the Customer Accounting cost for each Company. Can you give us the actual Customer Accounting cost for each of these companies.

Mr. Vorenberg: Mr. Nowlin, perhaps it would be helpful if you would define for us what you mean by Customer Accounting cost.

Mr. Nowlin: The same thing he means. He has made

the representations here, and what we are trying to do is check his figures.

Mr. Vorenberg: I don't know what representations you are referring to.

Mr. Nowlin: He has stated the customer accounting, and what his operations would cover. We are just trying to find out what they are.

Mr. Vorenberg: What you have in mind, I am sure—what you are asking about, now, is the actual setup of these companies which they are now operating?

Mr. Nowlin: No, Mr. Vorenberg. The Ebasco report [1774] sets up each one of these customers—customer accounting, and what we want to do is ascertain the validities of those figures, and second, whether or not there is a proper allocation of these customer accounting costs between the electric and gas companies. That may make a substantial difference in the overall result. There is an estimate here of \$415,700, I think, increase in customer accounting costs and that is the largest single item in the report, and, naturally, we are interested in the validity of that estimate, and we are unable so far, to make any check up.

By Mr. Nowlin:

XQ. Now, we would like to be supplied with the actual customer accounting cost, as reflected in these reports. In other words, it seems to me that the reports have no validity or probative value. Can you give us those figures, Mr. Johnson, for each of these companies? A. When would you like that for, sir—what year?

XQ. The year that you projected it for.

Hearing Examiner: What was that year? Can you state that for the record?

The Witness: 1958, sir. Exhibit 90 shows the Commercial Cost per customer for each of the respective Gas Companies for the year 1958.

By Mr. Nowlin:

XQ. Now, Mr. Johnson, looking at Exhibit 90, and the Northampton Gas, and noticing listed there, the per [1775] customer cost at \$3.58. Do you find that under Commercial? A. Yes, sir.

XQ. Now, can you give us the comparable figure for the North Hampton Electric? A. I do not have that available, sir.

XQ. How can you testify, then, Mr. Johnson, that the allocation between the Gas and Electric—of Northampton Gas and Northampton Electric, is fair? A. Because I took the overall Treasury Accounting Payroll for the Electric and for the Gas, and compared it to the number of meters and the percentages turned out that it was a reasonable allocation.

XQ. What set of comparative figures did you get before you came to that conclusion? [1776] A. The figures that I mentioned before, the over-all payroll in 1959 level, at the 1959 level, for Northampton Electric of approximately \$82,000; Northampton Gas of approximately \$61,000; 57 per cent of the payroll was charged to Northampton and they have 54 percent of the meters; 43 percent of the payroll was charged to Northampton Gas and they had 46 percent of the meters.

I think that is a good basis for saying that the allocations are quite reasonable and fair.

XQ. Now, isn't it a fact, Mr. Johnson, that on the customer accounting reflected on page 40, Exhibit 91, the estimated increases of \$415,600 on the pro forma basis, reflects other costs that are not customer accounting costs? A. Yes, sir.

The \$415,600 contains costs other than commercial costs.

XQ. Other than customer accounting costs? A. Other than customer accounting costs.

XQ. What is the validity of this figure of \$415,600?

A. That represents the loss of economy because of severance as shown in Exhibit 58, in any and all of the sections dealing with customer accounting. The second section of each specific company report, for example, page 626, staying with Northampton Gas, the \$31,400 and if you add that sum to the sum shown in each of the gas company [1777] reports under Customer Accounting, you will come to the total of \$415,600.

XQ. Now, how do we know whether or not you figure \$415,600 includes \$100,000 or \$200,000? A. What did you say, sir?

XQ. How do we know whether or not your customer accounting figure of \$415,600 includes \$100,000 or \$200,000 of cost that should be distributed among some other accounts? A. It does include costs that should be distributed to other accounts, other than commercial expenses.

XQ. Well then, this exhibit does not reflect the actual facts, does it? A. Yes, sir. That is on the functional basis and it certainly represents the increase in the customer accounting functional area of the loss of economy due to severance.

XQ. But you have other items included in there. A. Yes, sir. We have telephone operators, janitors; but in each and every case they are clearly identified within each page of the report.

XQ. Now, as I understand it, you take the increases; for example, Northampton Gas, \$31,400 and then you go to the other, and you take the comparable figures, and that all adds up to \$415,600, is that right? A. Yes, sir.

[1778] XQ. On that basis, are we not warranted in using the figures and comparison which we used a while ago of \$2.12 for gas; and \$2.59 for electric?

Mr. Vorenberg: For what purpose?

Mr. Nowlin: For the purpose of testing the accuracy of this estimate.

Mr. Vorenberg: The witness has already explained there are offsetting items.

Mr. Nowlin: Why did you include them in here? Why doesn't he give us a figure we can check?

Mr. Vorenberg: I think if we go back to the original purpose of the Ebasco report, it was to present as clearly as they believe it possible to present, all the data on the basis of which you and anyone else could draw conclusions. The fact that by taking a relatively small section of the report, and making the customer comparison, you don't show the whole picture, seems to me to be irrelevant; you have to work your way through this, page by page.

Mr. Nowlin: Do you mean we are going to have to cross examine this witness on each one of these studies to get the facts out of here to determine what the actual customer accounting increases are?

Mr. Vorenberg: I should suppose not. The facts are here in the report. I should not think it is necessary to. We certainly agree that you can ask any [1779] questions you want to on that.

Mr. Nowlin: We are taking the facts that appear in this report, and one of the facts you gave us is that the accounting customer cost for Northampton is \$19,000—in another figure, it is \$15,500.

How can you reconcile those two figures?

Mr. Vorenberg: He also testified, I understand, there are offsetting items in the general accounting area that—if you will examine the report or the peculiarities of the territory or otherwise—that explain these comparisons. I don't think—

Mr. Nowlin: He also testified nowhere in this Ebasco report are these items disclosed. We have to guess at them. He, only, in his own mind, knows how he computed these figures.

May we have just a short recess?

Hearing Examiner: Yes. We will take a 5-minute recess.

(Brief recess)

Hearing Examiner: Let us come to order.

Mr. Nowlin: Mr. Examiner, the staff had prepared a statistical compilation showing a comparison of the customer accounting payroll costs of the eight NEES gas companies, actual and pro forma, for the year 1958. All of these figures are obtained from Respondent's Exhibit 58-A except the staff have computed the per customer figures [1780] reflected on this exhibit. So I would like to offer this into evidence as Division Exhibit No. 2.

(Division Exhibit No. 2 was marked for identification)

Mr. Vorenberg: Does Mr. Nowlin propose to put a witness on to explain how this was prepared?

Mr. Nowlin: I don't think it is necessary to put a witness on the stand, to sustain a figure that is taken here from an exhibit. Of course, we would introduce this subject to check for accuracy.

Mr. Vorenberg: I am not referring to accuracy. I am talking about how it was prepared; the relevancy of the way he drew the figures off of the report.

Mr. Nowlin: Now, these are actual figures taken off of Respondent's exhibit, and the only thing the staff has done,—

Mr. Vorenberg: Is that something you are testifying to?

Mr. Nowlin: No. I am assuming you are testifying to the validity of these figures.

Mr. Vorenberg: I don't know where these figures came from.

Hearing Examiner: Gentlemen, I think if there is no objection to this exhibit, that it should be introduced through the testimony of whoever prepared it.

Mr. Nowlin: May we—

[1781] Hearing Examiner: Do you want to withdraw the present witness and put your witness on the stand now?

Mr. Nowlin: I would like to withdraw the present witness.

Hearing Examiner: Do I hear any objection to that?

All right. You may retire temporarily, Mr. Johnson.

The Witness: Thank you, sir.

(Witness temporarily excused)

Whereupon,

SAMUEL GISHMAN

was called as a witness by and on behalf of the Division of Corporate Regulation, and being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Nowlin:

Q. Please state your name. A. My name is Samuel Gishman.

Q. Will you state what your position is? A. I am Financial Analyst on the staff of the Division of Corporate Regulation, engaged in this case.

Q. Mr. Gishman, do you have in your hand a tabulation entitled "Eight NEES Gas Companies Statement Showing Comparison of Customer Accounting Payroll Costs, Actual and Pro Forma, Year 1958"? A. I do.

Q. Did you prepare this exhibit? [1782] A. I did. Yes.

Q. Would you tell us the source of the information reflected thereon? A. All of the basic figures appearing on that statement—by basic figures, I mean the total number of customers and the dollar amounts of payroll for each company, were taken out of Respondent's Exhibit 58-A, exactly as they appeared in that exhibit.

Q. You did not purport to vouch for the accuracy of the figures taken from Respondent's Exhibit 58-A? A. No, sir. I took them just as they appeared there. The only figures that did not appear in Respondent's Exhibit 58-A are the per customer figures appearing on the various columns and the percentage figure appearing in the very last column. These per customer figures and percentage figures are merely arithmetical computations derived from the basic figures taken out of Respondent's Exhibit 58-A.

Mr. Nowlin: And, Mr. Examiner, I should like to offer this exhibit into evidence as Division's Exhibit No. 2, subject of course to the check for accuracy.

Mr. Vorenberg: Since this has been just presented to us, Mr. Examiner, we would request, in accordance with the procedure which has been in effect since the beginning of this case, that we have an opportunity to cross examine on it, after we have had an opportunity to review it.

[1783] Hearing Examiner: I think that is a reasonable request. I will hold the reception of this exhibit in evidence and when you desire to cross examine Mr. Gishman, we will return to this exhibit at that time.

Mr. Vorenberg: I would like just by way of clarification, to ask a couple of questions now.

Hearing Examiner: Very well.

Cross Examination

By Mr. Vorenberg:

XQ. Just taking one of these figures, Mr. Gishman, will you tell us exactly from where in Exhibit 58-A the figures are taken? A. Yes, sir. We will take Central Massachusetts Gas, as an example.

XQ. All right. A. The number of customers for Central Massachusetts Gas, 9,595, appears on page 105 of Exhibit 58-A. The figure of \$51,600, Central Massachusetts, appears on page 129 of Exhibit 58-A, in the column headed

"Actual". The figure of \$70,200 appearing for Central Massachusetts in this exhibit, also appears on page 129 of Exhibit 58-A.

In the column headed pro forma, the figure of \$18,600 appearing on Division's Exhibit No. 2 is merely the difference between the \$70,200 and the \$51,600. The figure of \$5.38 appearing on Division's Exhibit No. 2 [1784] is nothing more than arithmetical computation, dividing the \$51,600 by the number of customers, namely, 9,595. The figure of \$7.32 appearing on Division's Exhibit No. 2, is again nothing more than arithmetical computation, which is the result of dividing \$70,200 by the same number of customers, namely, 9,595.

Similarly, \$1.94 and the 36 percent appearing on Division's Exhibit No. 2 are arithmetical computations, based on the underlying basic data that I have already described.

XQ. With respect to the other seven companies, the computation was taken off the similar table in the report. Is that right? A. That is correct.

Mr. Vorenberg: Mr. Examiner, we have no objection to the admission of this actual exhibit, at this time, subject as you said earlier, to our opportunity to cross examine at some later date.

Hearing Examiner: All right. Very well.

Subject to the right of cross examination of Mr. Gishman, this exhibit about which he has been testifying, is admitted as Division's Exhibit No. 2.

(Division's Exhibit No. 2 for identification was received in evidence.)

Whereupon,

[1785]

THOMAS JOHNSON

resumed the stand and was further examined and testified as follows:

Cross Examination (Cont'd)

By Mr. Nowlin:

XQ. Mr. Johnson, turning to comparison of the customer accounting cost of Lynn-Gas—the Gas Department of Lynn Gas and Electric, particularly drawing your attention to page 342 of Exhibit 58-A, which indicates customer accounting payroll cost for 1958, for the Gas Department of Lynn, of \$168,400, as against a cost for the electric department of \$211,300, which appears at page 925 of Exhibit No. 58-B, now, according to page 305 of Exhibit 58-A the gas customers number 40,922 as compared with 45,378 electric customers. As we compute it, these comparative costs amount to \$4.12 per gas customer and \$4.65 per electric customer.

How do you explain this disparity between these costs?

A. If you will look, please, sir, on page 319—

XQ. Of 58-A. A. Yes, sir. The total overall treasury and accounting payroll cost for the Electric Department was approximately \$312,000; for the Gas Department, \$217,000.

XQ. Yes, but you are—the figure you have just referred to is the total accounting cost, not the customer accounting cost? [1786] A. That is right, sir. You cannot just take a small segment. You should take it from an overall basis, on the overall basis of the total treasury and accounting, using the figures I just quoted, the \$312,000 for the Electric Department and the \$217,000 for the Gas Department.

This represents 60 percent of the payroll as allocated to the Electric Department and 40 percent as allocated to the Gas Department which is reasonable in comparison to the number of gas meters and electric meters.

XQ. Now, Mr. Johnson, why did you set up this separate category of customer accounting cost increases of \$415,700?

A. This is a grouping of personnel, sir. I mean, there are other costs that are involved in customer accounting—

or commercial expenses other than payroll. There are numerous costs involved.

XQ. Yes. Well now, again, why did you set up that category or ask to be set up this category of customer accounting cost of Exhibit 91, page 40?

Hearing Examiner: That is substantially the same question and the witness said something—was that your reason for doing it, handling it, as you have indicated?

The Witness: We have shown the customer accounting grouping on page 40.

Hearing Examiner: This is the reason you are giving for the way you presented the matter. Is that right?

[1787] The Witness: Yes, sir.

Hearing Examiner: All right.

The Witness: We show the customer accounting grouping on page 40 as a method of clarifying and presenting the report in a clear fashion. As I mentioned earlier in my testimony this morning, if you would go through each one of the specific gas companies, and would add up the increased payroll cost as shown under the customer accounting grouping, you would come to the figure of \$415,600.

It should be clearly understood that the \$415,600 does not represent in its entirety, increased costs for customer accounting functions or so-called commercial expenses.

XQ. Now, how can we possibly tell what the total increases are then? A. You can see in each section of the report, the increased personnel requirements under the grouping of the customer accounting.

Mr. Nowlin: Mr. Examiner, this may be—may I show you this exhibit that we are talking about to get some comprehension of it?

Here is the summary table of the estimated increases on pro forma basis, broken down by Ebasco under these different categories.

Now, you notice that the biggest single item there [1788]

of \$415,600, of increased costs, is attributed to customer accounting. We have the item, 61,600 attributed to general accounting. Since this is the biggest item, it is important that we be able to get at the determination of the validity of this figure. That is what is causing much of this circuitous examination.

Hearing Examiner: Mr. Nowlin, the way this strikes me is that you are asking these questions of the witness, repetitious in character, and you are not getting the answers you would like to get, and I can—I don't see there is anything I can do to—

Mr. Nowlin: It is not getting the answer I would like to get, Mr. Examiner. It is trying to get an explanation of the item that is actually reflected here.

We cannot, on the basis of the witness's testimony, we cannot reconcile his testimony with this figure.

Hearing Examiner: Well, if you cannot, the record will have to stand that way, won't it? I am not curtailing your examination, but I don't see that I can—

Mr. Nowlin: I am just presenting this so you get some idea of what the cross examination was about here, on this particular subject.

Hearing Examiner: Well, I am glad to have it. I don't see that I can participate in the examination because I have not too much familiarity with all these factors and figures. [1789] By Mr. Nowlin:

XQ. I believe the figures you quoted from page 319 of of Exhibit 58-A were \$312,822 for the Electric Department of Lynn and \$217,455 for the Gas Department of Lynn.

Is that correct? A. Yes, sir.

XQ. Those figures represent the part time cost, don't they? A. Well, you can add on the \$23,000 full time and the \$9,000 full time for the gas.

XQ. All right. If you added to those part time, the full time, what figures would you get? A. Approximately

\$335,000 for the electric and approximately \$226,000 for the gas.

XQ. Now, I think we previously indicated that the electric customers totaled 45,378 and the gas customers totaled 40,922. Dividing the electric customers into your total electric figure, we get a per customer cost of \$7.40 per customer as against a \$5.51 per customer cost for the gas.

Now, how do you justify that wide difference? A. Well, you are taking the figures which I just quoted, the \$335,000 and the \$226,000. You should not divide customers in there to get a cost per customer, because we are talking now about overall total treasury [1790] and accounting costs. As I mentioned previously, this payroll allocation between electric and gas represents 60 per cent allocated to the electric and 40 percent allocated to the gas which is a reasonable allocation in comparison to the 40,900 gas meters and the 45,300 and some electric meters.

XQ. Do you mean to say that the method of allocating costs, other than the customer accounting costs, is different; that it is allocated on revenue basis or some other basis? A. I was making a comparison for you, sir, and I was establishing the fact that this allocation of 60 percent to the electric and 40 percent to the gas, for the overall treasury and accounting payroll costs at Lynn is a reasonable allocation between electric and gas in relationship to the number of electric meters and the number of gas meters.

XQ. If you were comparing the customer accounting costs between two different utility companies, how would you go about making such comparison? A. Comparisons can lead to—sometimes can lead to unsound conclusions. You must be certain that all factors, are one and the same.

Generally speaking, if you wanted to compare cost per customer of any utility companies throughout the nation, you would take their commercial cost and would [1791] divide it by the number of customers.

XQ. Well, isn't that the proper and fair way to make a comparison? A. I think it is a fair way but as I say, you must be sure that you are comparing likes.

XQ. Are we comparing likes when we are comparing two different departments in the same company? A. Now, we were just talking a few moments ago about commercial costs. Now we are talking about payroll costs. So again, these are two different things. There are other costs involved, other than commercial costs.

XQ. I just asked you how you go about comparing the cost of two different companies. A. I did not compare the cost of these companies at all. My job here was to construct the pro forma organizations and come up with the staffing requirements as if the companies were run on an independent basis and then ultimately, on a combined basis.

I was not comparing dollar cost here, and dollar cost there. I was determining and establishing what the personnel requirement is upon an independent operation and upon a combined operation.

XQ. We are talking per books now; not pro forma.

How could you possibly determine, Mr. Johnson, [1792] that the allocation between Lynn Gas and Electric Departments were fair, if you did not make comparisons? A. I made comparisons, sir, and I have discussed those comparisons in my direct testimony. I have discussed some this morning and I have discussed them from an overall treasury and accounting point of view and if you care to, I would go down each district treasury organization, and give you the allocations as they were made during the year 1958 that led me to the conclusion that they were fair and reasonable.

XQ. Well— A. I would be happy to do that.

XQ. I am just asking about the present Lynn Gas and Electric Department actual figures comparison of those, and ask you to justify the difference, in view of the comparatively small difference of customers.

What justification is there for that difference? A. Allocations are done on a basis of judgment. I don't think that you would ever find two or three people who would maybe, perhaps make the identical allocation. They are different.

XQ. Did you not testify this morning, Mr. Johnson, that the proper way to make an allocation on customer accounting, was on the basis of customers? [1793] A. I say that is a good measure, yes, sir,

XQ. Is there any other fairer measure? A. As far as customer accounting costs are concerned, the number of meters; the number of customers in my opinion, is a most reasonable tool to use.

XQ. That can be reduced to mathematical certitude, can it not, if you take the customer allocation basis?

A. Yes, sir. It can.

XQ. If that is the fair way to do it, why is that not the way you allocated these costs? A. I did not allocate these costs during the year 1958. They were allocated by the Lynn Company.

XQ. If that is the fair way— A. I did not make any allocation whatsoever.

XQ. Did you not say these allocations were fair? A. Yes, sir. In my mind, the allocations during the year 1958 were fair.

The gas companies bore their proper share of the treasury and accounting costs.

XQ. How do you reach that conclusion? A. By taking the overall payroll and comparing it to meters and coming up with percentages. For example, in the North Eastern District Treasury Organization—and I am sure that I testified to this in my Direct last May—in the Lawrence area, we have Merrimac-Essex [1794] Electric Company; Lawrence Gas Company and North Shore Gas Company. Taking the overall payroll, Merrimac bore 76 percent of that

payroll and they had 72 percent of the meters. Lawrence bore 11 percent of the payroll and 14 percent of the meters. North Shore bore 13 percent of the payroll and 14 percent of the meters.

In the Malden area of the Northeastern District Treasury Organization, where they have Suburban Electric Company and Mystic Valley Gas Company, Suburban bore 48 percent of the payroll and had 45 percent of the meters.

XQ. What? A. Mystic Valley.

XQ. What are you talking about? A. The total overall treasury and accounting payroll of personnel assigned to the Northeastern District Treasury Organization in the Lawrence area and the Malden area, during the year 1958.

XQ. May I— A. I did not finish that last one, sir.

Mystic Valley, the payroll—52 percent of the payroll was allocated to Mystic Valley. They had 55 percent of the meters. In my opinion and in my judgment, this represents a fair and reasonable allocation.

XQ. Is it your testimony that a customer basis is the fair and proper way to make an allocation of all of the accounting costs including customer accounting costs? [1795] The Witness: I feel that using the customer or the meter basis for allocating accounting cost is a fair way of doing it and gives a reasonable result.

XQ. And how do you justify the difference of \$7.40 per customer overall accounting cost for Lynn Electric as compared with \$5.51 overall per customer payroll cost for the Gas Department? A. Those figures that you just used there, is that from the customer accounting grouping on the Lynn payroll or is that from the total overall?

XQ. That is the total accounting figure you gave of \$312,822 for the electric and \$217,455 for the gas. You say those are the figures you use, and we use them and come up with those differences. A. We can do anything we want with figures.

Hearing Examiner: Off the record.

(Discussion off the record.)

By Mr. Nowlin:

XQ. Do you have any doubt about the accuracy of the figures, Mr. Johnson? A. No, sir.

XQ. Will you explain the differences then? A. The \$7.40 for the electric, the \$5.51 for the gas, the electric should bear a higher cost on the basis that you used there because we have more activity in electric. We have more [1796] work orders, more stores items. There is a difference between electric and gas operations. You have the electric plant in Lynn, generating station, etc. It is quite different.

XQ. Well, then suppose we remove from the \$412,000 figure any item except the customer accounting cost and get on to those costs which are directly related to servicing the customer? How do you explain these differences on that basis? A. Now, sir, you are talking about on page 318, the 81 electric employees and the 81 gas employees.

XQ. We are talking about the figures you gave us on page 319 of Exhibit 58-A. A. I am sorry. What is the question.

XQ. Well, we have tried to get your view, looking at the overall, taking all the accounting costs and relating that to per customer cost to get you to justify the variance there. Then you say, well, that isn't a proper basis because there are certain factors, Lynn Electric has certain factors, etc. We say, okay, we will go back to the customer accounting cost, which is related exclusively to the servicing of customers, to eliminate these pure electric aspects, and let us justify the differences on that basis. A. What were the costs for the electric customer and the gas customer? When you take on page 318 the customer accounting payroll—what were those figures that you had, please?

XQ. We were using a figure of \$168,400 for gas and

that [1797] figure is taken from page 342 of Exhibit 58-A. Now, that is the customer accounting payroll. Now, for the Electric Department, we were using a figure of \$217,300 for the electric, derived from page 925 of Exhibit 58-B. Now, dividing the number of customers for the gas which is 40,922 and 45,378 for the electric into those figures—and these customers are taken from page 305 of Exhibit 58-A—we get a customer cost of \$4.12 per gas customer as compared with \$4.65 per electric customer. I am asking you to explain or justify the difference in those two figures. A. There is a minor difference here between \$4.65 and \$4.12.

XQ. I think that is obvious. What is the reason for it?

A. I say that we should look at this on an overall basis. As I mentioned before, when you take the total treasury and accounting payroll, which shows an allocation of approximately 60 percent to the electric and 40 percent to the gas, which means that it is a reasonable allocation in that the gas department is bearing its fair share of the cost.

XQ. While we are on this point, do you know in the Lynn Gas and Electric territory whether or not the gas meters are inside of the homes and whether the electric meters are on the outside of the homes, or just the location of the meters? A. In the Lynn area the gas meters are indoors.

XQ. Where are the electric meters? A. The electric meters a very small percentage of them, [1798] could be outdoors.

XQ. So far, Mr. Johnson, we have been talking about the actual per customer cost. I want to turn your attention to a pro forma comparison. As we indicated awhile ago the actual costs are \$4.12 per gas customer and \$4.65 per electric customer. On the basis of our computation on a pro forma basis the cost to the gas is \$7.48 per customer as compared with \$7.23 per electric customer. In other words,

there is a complete reversal. On an actual basis the gas costs less. On a pro forma basis the gas costs more. What is the justification for that change? A. In the pro forma organization gas for the Lynn organization we transferred a function which was during the year 1958 included in the payroll and mailroom section into the customer accounting group.

XQ. If you transferred that pro forma, why didn't you make a comparable transfer per books? A. This report and these figures as shown under the various groupings are not per books. This is not an income statement or a financial statement. This shows the increased cost of personnel due to severance. It is not a question of per books.

XQ. If it was proper, Mr. Johnson, to transfer those personnel on a pro forma basis why wasn't it equally proper to make an adjustment on an actual basis? A. The payroll and mail room organization set-up was [1799] there during the year 1958, and the reason that we put it into the customer accounting group was so we would again have a uniformity throughout this report. We felt that it assisted in clarity.

XQ. Now, Mr. Johnson, doesn't this \$415,600 pro forma figure represent an increase over the actual reported cost for 1958 in Exhibit 91, page 40? A. Yes, sir, the \$415,000 represents the increased cost of personnel shown within the classification or grouping customer accounting throughout the various sections of the report.

XQ. Now, you started with an actual figure then less than it should be, didn't you, by not including these two personnel which you included in the pro forma figures? A. No, sir. Take, for example, page 342—

XQ. Of what Exhibit 58? A. 58-A. Throughout all of the groupings in the report under customer accounting, general accounting and stores, and at the moment we are looking at the one on customer accounting, we show an

increased cost in the customer accounting grouping of \$137,700, and as I previously mentioned, if you will go to this particular section in each report and add up the \$137,700, the amount applicable for Nystic and North Shore and Northampton, and the other companies, you will come to the \$415,400 figure. So we have at all times considered each and every person.

XQ. Wait a minute, though. I believe you stated the figure [1800] \$217,500 as reflected on page 342 included the transfer of two personnel to customer accounting, is that right? A. I didn't say two, and offhand I don't remember how many, but some of the clerks shown under payroll and mail were transferred over to the customer accounting grouping.

XQ. Now, will you identify the particular personnel? A. I couldn't do that, no, sir. I don't know which ones they are.

XQ. Do you know the total cost? A. Well, they had to be in some of these part-timers that are shown under clerk 5, 4, 2 and 1. So they would appear someplace on page 342 under those grade groupings.

XQ. Now, the personnel that you are talking about are not included in column 1, that is the present—they are included— A. No, they are not included.

XQ. But they are not included in the present. A. They are not included in the present, but they would be included in the pro forma. They are included in the actual on page 340, but they are not included in the pro forma on 340.

XQ. Well aren't you really comparing two different things? A. No, sir, absolutely not, sir.

XQ. Well, isn't it a fact, Mr. Johnson, that you are starting with a figure of \$153,800 on an actual basis that doesn't include this personnel that was transferred on a pro forma basis? [1801] A. The people who were transferred from the payroll and mail group on page 340 are not included

in the present grouping shown on page 342. They are included in the pro forma. So, in other words, they are not shown in two places, absolutely not.

XQ. Let me see if I can boil this down to where these documents will be plain to me. You started with your \$415,600 figure reflected on customer accounting which represents an increase over the actual cost in 1958, isn't that true? A. Yes, sir.

XQ. Included in those actual costs for 1958—not included in that cost are some personnel that are included in your pro forma figures, isn't that correct? A. What is that, sir?

XQ. Do I make myself clear? Read the question back. (The pending question was read by the reporter.)

By Mr. Nowlin:

XQ. In other words, your actual figure that you started with doesn't include the personnel that are reflected in your pro forma figure, isn't that a fact? A. No, it is not a fact.

XQ. Well, didn't you just testify that this personnel are not included on page 342, column 1? A. They are shown on page 340 under parttime actual and they are not shown in the pro forma on page 340. They are not shown in the present on page 342. They are included in the [1802] pro forma on page 342. I can't make it any clearer.

XQ. Well, now, your table on page 340 is general accounting, isn't it? A. That is right, sir, and as I say, included in this payroll or mail group were individuals that were transferred over into the customer accounting grouping on the pro forma organization. The payroll and mail grouping was disbanded in its entirety in the Lynn pro forma. We have established, as I mentioned yesterday, and as I mentioned in my direct testimony, I established a framework for these pro forma organizations and basically it consisted of general accounting, customer accounting groups, and

stores accounting groups. In order to make Lynn uniform on a pro forma basis, I continued with Lynn in that manner, and I did it for the sake of clarity.

XQ. All right.

Now, I asked you about the allocation of the gas and electric meters in the territory of Lynn. Can you tell me what the similar situation is throughout the NEES System?

A. Throughout the Nees—the entire NEES System?

XQ. Where they are combination operation, gas and electric operations. A. The similar system—what is this?

XQ. Are the gas meters of the gas companies generally in the NEES System located inside of the houses? A. The gas meters for the NEES System are located inside of [1803] the houses, yes, sir. I don't think there are even fifty there outside.

XQ. What is the situation with respect to the electric meters where there are combination operations? A. I may be wrong on the percentages, and it varies from area to area, I think on an overall basis there could be approximately 35 percent of the meters, electric meters, outdoors. I think that is the figure. I would have to check that.

XQ. You are talking about where they are combination electric and gas operations? A. I don't know. I know that the percentage of meters outdoors are electric. Now, you are asking for something else. You say of the combination electric and gas.

XQ. No, that was my first question. A. Oh. I will answer by saying that approximately 35 percent of the electric meters throughout the NEES System—and that is the entire system, even outside of Massachusetts—is approximately 35 percent.

XQ. Would I would like to do is to get you to stick to the combination of gas and electric operations. Can you tell me where the electric meters in those combination

operations are generally located? A. I can't identify that down to that point.

XQ. Do you know? A. We would have to look at the meter reading books there. [1804] They are marked, the location of the meters. We would have to make an analysis to determine that.

XQ. You didn't make any study of that? A. I am familiar with it and I was familiar with what was required to read the meter books.

XQ. Do you know the performance record of the reading of the gas meters as compared with electric meters? A. I am familiar with that, sir.

XQ. Can you tell us what it is? A. Again, it depends on the location. If the electric meter is outdoors, then, of course, it is much easier to read, but reading of the meter is not the important thing. The important thing is getting to the location regardless as to whether it is indoors or outdoors. Of course, if it is indoors, you have to wait for the wife to come to the door, and you may have to go back again because no one is at home, and gas meters, unfortunately sometimes are located in difficult spots in some of what they call cold water flats. You could find them, perhaps, even in a bathroom or in a kitchen.

XQ. Do you know generally how many gas meters a meter reader can read in one day? A. Again, that would depend upon the particular territory we are talking about. If he was going into apartment houses where we have a bank of meters he could read any number of them. In an area that is scattered, where he has a large amount of walking, of course, his production would drop.

[1805] XQ. You don't know whether the performance record in the NEES system was with combined operations? A. I know approximately how many meters were read in the various areas, yes, sir.

XQ. Do you know specifically, Mr. Johnson, what is the meter reader's performance record in the NEES area where there are combination gas and electric operations? A. It varied from, oh, approximately 115 and 120 up to 270 meters per man per man day.

XQ. Forgetting about the time getting to the area of the meter reading, do you know the time it requires in the NEES combination area, not generally, but this area? Do you know the time it ordinarily takes a meter reader to read a gas meter as compared with reading an electric meter? A. Once he is at the meter, then there is no difference. All he does is glance at it simply as I glance at that clock and I have read the meter.

XQ. You can't glance at it from inside the house, can you? A. I said once he was at the meter. He has to be at the meter before he can read it.

XQ. Once he is in the area where the meters are located and starts out reading meters, isn't the substantial difference in the time locating the gas meter located in the house and locating the electric, reading the electric meter on the outside [1806] of the house? A. Again I go back and say if the house is set back well off the street, the man walks in and has to walk up to the outside of the meter which is outside, if it is electric. He would then have to go around and inside and read the gas meter. It would take him longer to read the gas meter in that particular instance than it would the electric meter if it were outdoors.

XQ. Did you take any of those factors into account in arriving at your estimated performance in the Ebasco report? A. I absolutely did.

XQ. Can you tell me how you reduced those factors to a definite dollar figure? A. Reduce it to a definite dollar figure. I determined what the reading requirements would be and then applied the payroll, et cetera. I knew how many men we needed to read those meters on a pro forma

basis versus combination basis, enjoying the benefits of the electric association.

XQ. Can you tell whether or not the cost is a fair allocation if you didn't know those facts? A. Again I go back to the allocation I have discussed this morning and in my direct testimony, sir, I say they are reasonable. They are fair. And in my judgment I was satisfied with those allocations.

XQ. But you paid little or no attention in the formation [1807] of your estimated cost of the meter reading to the actual time required to be used to read a gas meter or an electric meter; is that correct? A. No, sir, I did not do that. I determined what a man could read in a workday, the number of meters that he could read and I took into consideration all of the various factors that you must consider when establishing a fair man day of work.

XQ. But you can't still tell me the difference in time that it takes to read a gas meter and an electric meter? A. You give me a particular instance, an example and I will try to explain it.

XQ. I will give an example of one house that has a gas meter located in the basement and an electric meter located on the corner of the house. What is the difference in the time required of a meter reader to read that electric meter and go inside the house and read the gas meter? A. He could go to the door and if the woman was taking a bath, he could wait a long time; if she is on the telephone, he could wait a long time.

XQ. What is your experience? A. The experience record is that we read, on an average, as I have mentioned, from 115 up to 270 meters per man per day.

XQ. Do you know whether or not you could call any Ebasco [1808] utility clients and ask them for that specific information and get it in detail as to the actual time to read a gas meter as compared with an electric meter? Do

you know whether you could get that information or not?

Mr. Vorenberg: Is that one single given meter?

Mr. Nowlin: They have got it broken down in all categories.

The Witness: Mr. Nowlin, I have what you called re-routed gas meters for natural gas companies and you must take into consideration all kinds of factors when you establish these books, these meter reading books. You have to decide and know whether they are in one family houses, two family houses, whether the meters are in the basement, whether you have an apartment house, whether it is what you call a car book, where the man must have a car to drive because of scattered distances and each book is a tailored book. At the same time you have to take into consideration the workloads and, unfortunately, union considerations. Some companies do not read in inclement weather. The men refuse to do it and it is even included in union contracts. Normally for NEES they make a fair effort in inclement weather. I think that answers your question.

By Mr. Nowlin:

XQ. How could you possibly, Mr. Johnson, make any kind of a realistic estimate on a pro forma basis of the cost of separating the electric and gas without having some detailed [1809] knowledge of the time required to read gas meters and the time required to read electric meters?

A. Well, you use the word "cost", but I say that I established and determined the number of meter readers that were required to read these gas meters on a pro forma basis.

XQ. How did you determine that? A. Based on workload, the number of meters that I felt in my judgment a man could reasonably read in a normal work day.

XQ. Mr. Johnson, directing your attention to Respondent's Exhibit No. 90 and particularly to the item "com-

mercial'', you will note there that the per customer cost for such is \$6.04, and it gives the same information for the other gas companies in the NEES system. Now we would like to have the comparable figure for the five electric companies in the NEES system that conducted joint operations with these gas companies. Can you supply that?

Mr. Vorenberg: It seems to me it would be an orderly and more reasonable procedure if Mr. Nowlin has requests for information, additional studies and work to be done by the NEES group for those questions to be directed to counsel rather than to a specific Ebasco witness who has been employed to do the work that has already been described. Mr. Nowlin realizes the work that has been done to date has been an enormously detailed, thorough and costly and I think it is not a reasonable [1810] procedure for these questions for additional work to be directed to the witnesses such as Mr. Johnson. We would be very glad to discuss with Mr. Nowlin, as we have in the past, where we readily supplied information when he has requested it and I don't think the way to do it is to direct the question to a specific witness.

Mr. Nowlin: How did I know that this witness didn't have the information until I asked him the question?

Mr. Vorenberg: You didn't ask if he had it. You asked if he could prepare it.

Mr. Nowlin: Does he have it available?

Hearing Examiner: Have you this information available at the moment, Mr. Johnson?

The Witness: No, sir, I do not.

Mr. Nowlin: This witness has testified to the fairness of the allocation as between the gas and electric operations. I don't see how he could possibly reach a conclusion unless he had these figures available to him.

Mr. Vorenberg: Are you testifying to that?

Mr. Nowlin: It is a statement. Counsel, will you supply us with those figures?

Mr. Vorenberg: We will consider it and reply in due course.

Mr. Nowlin: I don't want consideration; I want a yes or no answer.

[1811] Hearing Examiner: They are entitled to a reasonable time to consider the request. Can you consider that during the luncheon recess, Mr. Vorenberg?

Mr. Vorenberg: We will consider it during the luncheon recess and report on our consideration when we return.

Hearing Examiner: Very well.

Mr. Vorenberg: I must ask you to state again exactly what the nature of your request is, Mr. Nowlin.

Mr. Nowlin: I referred to Exhibit 90. The commercial column there, the per customer cost for gas customers reflected on your exhibit, I want to get the comparable figures for the five electric NEES companies that conduct joint operations for these gas companies.

Mr. Vorenberg: Thank you.

Mr. Nowlin: Mr. Examiner, we have been asking questions from Respondent's Exhibit 90 and we have received some supplemental data from Mr. Hanson for NEES that we would like to request counsel for respondents to introduce as an exhibit properly marked Exhibit 90-A.

Mr. Vorenberg: Mr. Examiner, I believe that data that Mr. Nowlin has requested is included as a schedule or included as an attachment to a letter from Harry Hanson to Francis H. Spencer, dated June 21, 1960, submitting first an estimated breakdown by major function and account as to the net effect of severance of income accounts of the eight gas companies [1812] assuming they would be operated either independently or combined and, second, a tabulation showing the 1958 operating expenses per customer of certain Massachusetts gas companies derived from the

returns filed with the Massachusetts Department of Public Utilities. This, as Mr. Nowlin has indicated, was previously supplied to the staff at their request and we suggest the letter and attachments be marked as Respondent's Exhibit No. 104.

I might add that the second attachment, the 1958 operating expenses per customer of various gas companies, is a revision of Mr. Johnson's working paper which was, at the staff's request, introduced as Respondent's Exhibit No. 90.

Hearing Examiner: Very well, Mr. Vorenberg, Mr. Hanson's letter to Mr. Spencer, dated June 21, 1960, with the three schedules attached thereto, are admitted as one exhibit, Respondent's Exhibit 104.

(Respondent's Exhibit No. 104 was marked for identification and received in evidence.)

Hearing Examiner: Off the record.

(Discussion off the record.)

Hearing Examiner: On the record.

Mr. Vorenberg: Mr. Examiner, the staff has requested that an additional sheet that was prepared by the staff on the basis of information provided by Mr. Hanson orally at the staff's [1813] request be introduced as a supplement to this Exhibit 104, which has just been introduced. We are glad to offer this as perhaps as Respondent's Exhibit 104-A since the two are related.

Hearing Examiner: Very well, let it come in under that number and be identified as Respondent's Exhibit 104-A in this record.

(Respondent's Exhibit 104-A was marked for identification and received in evidence.)

Hearing Examiner: You may proceed.

By Mr. Nowlin:

XQ. Mr. Johnson, directing your attention to Respondent's Exhibit 104 and also to 104-A, which has just been introduced into evidence, on Exhibit 104, under the last

sheet of 104, under the item entitled "commercial", you notice the figure \$1,106,494, which is the average for the Massachusetts Gas Companies. A. The total.

XQ. Now, if you look over to 104-A, you will find the comparable figure was \$1,429,994 on a pro forma combined basis or a difference of \$323,500. Am I going too fast for you? A. No, I understand perfectly.

[1814] XQ. How do you reconcile the increase of \$415,600 in customer accounting cost as reflected on Respondent's Exhibit 91 at page 40 with the \$323,500 increase in commercial costs reflected on Respondent's Exhibit 104? A. The \$415,000 are shown in Exhibit 90 on page 40 and represent increased costs that are shown under the groupings of customer accounting in Exhibit 58-A. Of that \$415,600 only \$323,500 was allocated to commercial expense. The balance was allocated to other operating expense account, administrative and general or other appropriate accounts.

XQ. Why would any expenses per customer accounting be included in general and administrative? A. For example, on page 229 of Exhibit 58-A the Lawrence Gas Company, under this grouping of customer accounting the total increased cost was \$27,100, and as I have previously stated, taking this \$27,100 and every amount in that same category throughout the reports totaled will give you \$415,000, but now when this \$27,100 was allocated to various accounts it was analyzed and determined that, for example, all of the janitors, of the \$12,000 increase shown above there as the last item, should not be charged to commercial expenses because those janitors and that \$12,000 is not a proper charge to commercial expense. Some of it should be charged to other expenses. You go through the whole report and you will come up then with eliminations that amount to the difference between the \$415,600 and the [1815] \$323,500 figure which you just mentioned.

XQ. How important is the system customer billing as a component of the total customer accounting cost? A. It is an important consideration, and again, this goes back to our discussion of yesterday—meter reading is an important customer service activity. I wouldn't place it first or last or in the middle. I would treat them all together, relatively together.

XQ. But it is one of the major items in making up the customer accounting cost? A. I didn't say that, sir.

XQ. I am asking you if that is true. A. I didn't say it is a major item. I say it is one of the items. Meter reading, cashiering, customer service, credit and collection activities—it is one of them.

XQ. Isn't it a fact, Mr. Johnson, that the aggregate billing costs are among the major items making up the customer accounting costs? A. It is not one of the major items. It is one of the items. Billing does involve quite a bit. So does meter reading. So does cashiering.

XQ. Doesn't billing cost involve more than meter reading cost? A. I don't have this broken down to a cost for billing, cost for meter reading, cost for cashiering and cost for [1816] customer service.

XQ. Isn't that generally true that the billing cost, aggregate billing cost, is one of your principal items making up the cost of customer accounting? A. I wouldn't say that, not from my experience and not in my opinion.

XQ. What item is? A. I say they are all important. I go back and repeat this, and I said it yesterday and I say it again today.

XQ. I am not trying to get you to make a comparison of items. You have got an estimated increase in the customer accounting cost of \$415,600. Now, you must know of your own knowledge what particular items will represent the major portion of those costs, don't you? A. Yes, sir, and I have clearly defined them.

XQ. Now, I am asking you if billing costs aren't one of the major items making up that total cost. A. One of the important items. It is not a major item.

XQ. All right. It is one of the important items.

Do you know whether or not there are any advantages to be gained from central billing operations? A. It depends on what company we are talking about. There are various factors involved. If we could become more specific I could discuss it more specifically.

XQ. Well, lets stick to the NEES gas companies. Aren't [1817] there now joint billing operations between certain of the combination gas and electric operations in the NEES System?

Mr. Vorenberg: What do you mean by billing operations, Mr. Nowlin?

Mr. Nowlin: I assume that is a term he has used. He ought to know what it is. Preparation and sending out of bills.

By Mr. Nowlin:

XQ. Do you understand the term, Mr. Johnson? A. Yes, sir, I do.

Mr. Nowlin: What was my question now?

(The pending question was read by the reporter.)

The Witness: The answer is yes there are. Lawrence and Merrimack have a billing center. Mystic Valley Gas Company and Suburban Electric have a billing center. Northampton Electric and Northampton Gas do their billing at the one location, which is centralized as far as the electric and the gas is concerned. Norwood Gas, which is one of the smaller ones, does its own billing in Norwood. Wachusett and Central Massachusetts bills are prepared at Worcester County under the central district treasury organization, along with the bills of the Worcester County Electric.

XQ. Do you know whether or not it has been found to be feasible and economical to carry on these joint billing operations in the joint companies? A. Well, it is feasible. Sometimes it is a question of [1818] whether or not it is economical. The degree of centralization. There are other factors that you have to consider.

XQ. Well, are you meaning to state that these joint billing arrangements in the NEES System now are not on an economical basis? A. No, sir, not by any matter or means. They are done very efficiently and adequately.

XQ. Does it follow your opinion then that there are economies to be realized from joint billings? A. Again it depends. If you will give me a specific case. I feel that you are not making real economy, so to speak, or any substantial economy of any kind, by having a centralized billing center in every instance. It all depends on the circumstances. For example, in the Mystic Valley punch card installation, if you have machine time available you might just as well use it because you are going to pay rental on the machines anyhow. So you may pick up some billing rather than do it at another location on an independent basis.

XQ. Wouldn't that make for an economy of operation, or at least an abandonment of service? A. Before you could adequately and precisely determine whether or not there would be any economic savings through centralized billing you would have to make a detailed study.

XQ. Let me give you a concrete example in the NEES System—strike that for the moment. Did you make any detailed [1819] study to determine whether or not economies could be effected by joint billing among the NEES gas companies on a combined basis? A. No detailed study was made, but I certainly considered this centralized billing for the combined operation and in my opinion and my judgment there would be no economy made by such a move.

You would introduce other considerations if you were going to do such a thing. As a matter of fact, we have 235,000 meters, I think, that are involved.

XQ. Did you in making your study of these possible joint billing arrangements come up with the conclusion that no economies would be effected in the combined operations by joint billing? A. No, there were other considerations that were factors or part of the factors in my coming to that conclusion, and that was that in the smaller companies we get quite some flexibility and use out of personnel and the billing function, for example, in Central it is not too difficult at all and not too much of a workload to perform at that particular location. Norwood has been functioning that way for quite sometime and it has worked out very well for them. Certainly in the Norwood Gas Company, with only, I think it is approximately 5,000 meters, we have the good fortune to be able to use a billing machine operator, and I say for a few hours or maybe an hour a day, and we are able to use that same employee maybe to relieve a cashier at rest periods and lunches, answer the telephone, handle customer inquiries, and do other things. So when we have minimum [1820] organizations such as we have here in this pro forma organization we must be able to have flexibility within our working groups.

XQ. Now, do I understand that you made an actual study of the possibility of having joint billings, or that you just generally considered the matter? A. I said I considered the matter and for—well, in the first place, I say there are other considerations involved, which I have just described and discussed. I have considered it, and I do not feel in my judgment that centralized billing would result in any economy as far as the eight gas companies combined are concerned.

XQ. But you didn't make any specific study; you just relied on your general knowledge, is that right? A. I

didn't make a detailed specific study of that particular area, no, sir.

XQ. Now, the example that you have just given us related to most of the smaller companies in isolated areas. Now, I want to take you to North Shore, Lynn and Mystic, the bigger companies, all of which are located roughly in an area which we have computed out to be 15 miles wide and about 28 miles long. Now, is there any reason why there couldn't be economies effectuated by joint billing among those three companies? A. As far as Mystic Valley is concerned that is on punch card equipment and the complement of equipment and personnel in the pro forma organization is sufficient to take care of [1821] Mystic's necessity.

If we were to bring North Shore into there we would have to rent additional IBM equipment and increase the amount of personnel we show in Mystic Valley Gas Company under the machine accounting group. It is just as economical for us to perform North Shore billing on key driven equipment. They have approximately 32 or 33 thousand meters, and therefore we wouldn't gain anything by bringing it into Mystic Valley. I would say you would know all your billing was done in one spot.

XQ. Then how would you come to the conclusion that economies are now being realized from the joint billings by the combination operations? A. I don't know whether there are economies being realized. I say they are functioning well. You could perhaps do it on a decentralized basis and for the same cost. There is no reason to say, in the first place, I think you have to remember that in this centralized center at Mystic, which is the biggest one—and by the way, 100,000 of the 235,000 accounts we are talking about were at this center—we had the benefit of the electric companies there, and we got a larger volume. Now we are tearing out the electric. The same thing was true at Worcester. We

had all the Worcester County electric customers there. So it was easy enough to pick up Central, and what was the other one? Wachusett.

XQ. Now, as I understand it, it is our understanding you [1822] made a study of the pro forma operations on a combined basis of North Shore, Lynn and Mystic, and you concluded no economies could be effected by those companies having joint billings, is that correct? A. Mr. Nowlin, I didn't make a study. In my opinion, a study would have taken considerable time and would have had to be in sufficient depth to come to a sound conclusion, and in my judgment and my opinion there was nothing to be gained by centralizing the billing activity of North Shore, Lynn and Mystic Valley. As a matter of fact, Lynn also had punch card equipment. So that is now 145,000 out of the 235,000 accounts that do use a limited form of sophisticated—if you want to use the word—equipment.

XQ. Well, wouldn't the joint use of the rental equipment of these three companies effect economies over their independent operations? A. It all depends on the degree of machine utilization. In other words, if we have what you call a calculator and we have one in one of the companies, if we have to go out and get another calculator simply because we pick up another 30,000 accounts, that is not an economical measure. We would be better off to do it on key driven equipment at another location.

XQ. I am not familiar with the particular type of machine operations you are talking about, but it seems to me it is absolutely logical to expect that with the increased volume [1823] of customers that you would have from the joint billing of the three companies, you could utilize to a better advantage the machine equipment with the customers of three companies than you could with one company; is that correct? A. As far as key driven billing machinery is concerned, what you say is absolutely cor-

rect; that we would get a better utilization out of that machine, but Norwood has one, Northampton had one. They are relatively inexpensive. The maintenance charges on them are very little. The training of personnel and conversion, and so forth—we avoid all of those costs. To my mind—in my opinion, too—there is nothing to be gained by this centralization that you speak of.

Hearing Examiner: Is this a good point to stop for lunch until one-thirty?

Off the record.

(Discussion off the record)

Hearing Examiner: We will recess at this point until one-thirty this afternoon.

(Whereupon, at 12:30 o'clock, p.m., the hearing recessed until 1:30 o'clock, p.m., of the same day.)

[1824-1825]

AFTERNOON SESSION

1:30 p.m.

Hearing Examiner: Let us come to order.

Mr. Vorenberg: Mr. Examiner, before the luncheon recess Mr. Nowlin asked if we could provide the Staff with figures showing the commercial costs for the five electric companies on a basis comparable to that shown in Exhibit—the last sheet on Exhibit 104—Respondent's Exhibit 104. We think those are taken from the Massachusetts Department of Public Utilities figures and we believe we can have them available provided we can obtain them.

Hearing Examiner: Do you gentlemen want to confer about something, or shall we go ahead.

Mr. Nowlin: Off the record.

Hearing Examiner: Off the record.

(Off the record discussion)

Hearing Examiner: On the record.

THOMAS JOHNSON

was recalled as a witness, was examined, and testified as follows:

Cross Examination - Cont'd.

By Mr. Nowlin:

XQ. Now, Mr. Johnson, just prior to the recess, I think we were talking about customer billing—that term is used in your report—what function does that actually cover? [1826] A. Customer billing would include the actual preparation of the customer's bill. It would include certain pre-audit activities. It would include summarization and classification of revenues and rates—what we call bill proving. In other words, assuring that the bill was computed properly. This is generally, mainly what it would consist of.

XQ. In other words, the meter readers go out and read the meters and prepare their books or cards and turn them into the offices and then your customer billing picks it up and they prepare the bills. Is that correct? A. That is right, sir.

XQ. And they mail out the bills? A. They are mailed out, not particularly by the customer billing group though. The bills may, if they are done at the Center, they may go back to the branch office to be mailed from there, so they would have it on the local town postage stamp, something like that.

XQ. Is there any reason why the function of customer billing couldn't be performed at any one spot in the NEES area, except, maybe for the time, the lag in getting the meter reader's books to the Center? A. Are you speaking now, sir, of a combined operation?

XQ. No, just the customer billing. Wouldn't it be practical, assuming, except for the time element, for a centralized customer billing to be done for the whole system—

[1827] NEES system at one point, if it were economical to do so? A. If it were economical to do so, it would be perfectly all right, yes, sir.

XQ. Are you familiar with Boston Edison's operations? A. No, I can't say that I am.

XQ. Do you know whether or not they use centralized billing or a commercial type billing? A. From the little I do know about Boston Edison, I think they serve in a rather compact area and I would imagine that they would have a centralized billing center.

XQ. Would you know whether or not—their service area isn't as large as the combined service areas of North Shore and Mystic and Lynn Gas? A. I do not know the area that Boston serves. I am not familiar with that.

XQ. Do you know the area served by Boston Gas Company? A. No, I do not. No.

XQ. Do you know the area served by any of the other large gas and electric companies in Massachusetts? A. No, not Massachusetts.

XQ. Well, are you familiar with the general operation of the Washington Gas & Light Company here in the District of Columbia, and adjoining areas? A. I have never worked for them sir.

XQ. Would you have any idea how the area served by the [1828] Washington Gas & Light Company would compare with the others in the NEES system? A. I am not familiar with that.

XQ. Are you familiar with any utility areas as far as how the area served is comparable with the area served by these three gas companies? A. I am familiar with a number of them.

XQ. Do you know of any of those companies who have anything other than centralized billing? A. Yes, sir.

XQ. Which companies? A. I know that, for example,

Montana-Dakota—they have their billing on a divisional basis. They have decentralized billing centers.

XQ. Isn't there quite a difference in the area served by Montana-Dakota and these three gas companies?

A. There are a number of billing centers—say, five or six of them, which, in a way, are comparable to the NEES setup, in a general way.

XQ. Well, this area served by Montana-Dakota four or five times covers the area that NEES serves? A. When you take one of the billing centers or areas, or divisions, it becomes comparable, in a way, to certain of the companies of NEES, particularly those you mentioned, Lynn, North Shore, Lawrence, in an area together.

[1829] XQ. So they have Central billing in those areas in each Division? A. They bill on a Division basis, yes, sir.

XQ. Are you familiar with the territory served by Philadelphia Electric Company? A. Generally, I am.

XQ. Wouldn't you say that the area served by Philadelphia Electric Company is as extensive as that served by the three gas companies in the NEES system, namely, Mystic, North Shore and Lynn. A. That would be fairly accurate.

XQ. Do you know whether or not Philadelphia Electric maintains a central billing setup? A. I think they do.

XQ. Isn't it rather unusual in the utility industry not to have a central billing setup? A. It is not unusual. Organizations are constantly changing. Nothing ever remains the same and you are always having improvements and you are always working towards centralization. I don't think it is completely unusual.

XQ. Do you know, whether or not, Mr. Johnson, one of the factors advocated by the different Holding Company System in the economy of operations, was a centralized billing center? A. You take Middle South. That is a holding company. I have worked for some of the companies in

Middle South. [1830] They don't have a common billing center for all of the companies within the system.

XQ. Doesn't Arkansas Power & Light System have a centralized billing center? A. Within the four companies in the Holding Company System, they don't.

XQ. You have quite different factors. Middle South stands over a different area as compared to these three gas companies? A. They are just across the river. They are not combined.

XQ. Louisiana Power and Light has a centralized billing system? A. Yes, sir.

XQ. Arkansas Power and Light has a centralized billing system? A. Yes, sir.

XQ. Niagara has a centralized billing system? A. Yes, sir.

XQ. Covering practically the whole state of New York? A. Yes, sir.

XQ. It is unusual in the utility industry not to have centralized billing? A. The tendency is to have centralized billing, yes, sir.

[1831] XQ. In this particular case, why isn't it feasible for these three companies to have centralized billing, and economical? A. It is feasible, but it is a question as to whether or not it would be economical. In my mind, I don't feel you would make any substantial savings by centralizing the billing in these particular companies mentioned.

XQ. Where do they vary from those other companies we named that do have centralized billing? A. We don't know, in these other companies, whether they are making a substantial economy. Sometimes, centralized billing is done to have better control over the billing. Many other factors are involved in those companies you mentioned. Other things come in when you have centralized billing. Accounts receivable or decentralized accounts receivable—all kind

of arguments go with the customer accounting functions. It is difficult to find two companies exactly the same.

XQ. Isn't it a fact, Mr. Johnson, there is no question but what, in a mass operation of the type that is involved here, billing for say 200,000 gas customers, that economies could be effected by having a centralized place where you could utilize the machines and the services of the employees for that one function. Isn't that a fact? A. I am not familiar, in any detail at all, with a study which is currently in progress with the NEES system and this is what we call a computer feasibility study, and it [1832] is doing exactly as you said, taking into consideration the economic desirability of centralizing the billing, utilizing a large scale high speed computer. Definitely, with the gas and electric, there would probably be some economy with the total system put together, but you are not going to take it all at once. You are going to take it in steps.

XQ. Now, do you know how many machines that these three gas companies use at the present time or utilize at the present time for their billing? A. Now, we are talking about Lynn?

XQ. Lynn and Mystic and North Shore. A. Lynn and Mystic, during the year 1958, used punch card equipment. Lawrence used key driven equipment, one machine. North Shore bills were prepared at the punch card center in Malden, which was operated by Mystic Valley and Suburban Electric. What it amounts to is wherever we had combination accounts, they went to the billing center where the electric accounts were billed, because we were able to utilize the same address card to address the gas bill and electric bills and could use the same addressograph plate and we had to up-date one card and change one addressograph plate. You simplify it when you have a combination electric gas activity.

XQ. How far is Norwood from the heart of the center

[1833] served by these three gas companies? A. Oh, Norwood—I guess it is about an hours run out of Boston, or out of Malden.

XQ. How far is Lawrence from the heart of the center of these three companies? A. Lawrence is about 40 minutes, I think, out of Malden.

XQ. Well, is there any practical reason why Lawrence and Norwood couldn't be served from a central center in the heart of the operating area of these three companies, along with these three companies? A. All of this could be done but you introduce other problems, such as, if we do this, we are going to be transporting meter reading books; you have a communication system setup. It is a question of just how much economy you are going to get out of a move such as that. In my judgment, I don't feel it would be too substantial.

XQ. Well, is this just a general feeling on your part, Mr. Johnson, or did you make a detailed study to determine the economy that may or may not be realized? A. As I mentioned to you, I did not make a detailed study, but I know when we take the 235,000 customers on a combined basis, if they were severed from the NEES system—in the first place the economy could never justify a high speed computer. They couldn't afford an installation like that, since they bill on a bi-monthly basis. We have 235,000 meters, [1834] which would mean approximately 117,000 bills monthly, or 115,000. You could justify nothing other than conventional punch card equipment and this is my reason for saying that I doubt if there would be any economy to speak of. There may be some—I am familiar with companies where we have made studies, where they have been on a decentralized basis, used key driven equipment, and have made studies to go into more sophisticated equipments, and you have conversion costs you should amortize. Once you do this you have employee training problems,

union problems. In my mind, the economy should be substantial before you could go ahead and make such a move as this. It would have to be worthwhile.

XQ. Well, now, do these three gas companies we are talking about, and the other companies, for that matter, use the same type of billing machinery? A. Again, sir, I mentioned this in my direct. I described each type this morning. In Norwood, they use a key driven burroughs machine. In Central Massachusetts and in Northampton—Northampton is done by the Northampton Electric, and they use a key driven machine. Central Massachusetts, and Wachusett, send their bills to the Worcester Center where key driven, National Cash Key Driven Machines are used, along with the Worcester County.

XQ. Isn't it a fact that the Worcester service area extends, probably, three times over the space the Wachusett Gas Company does? [1835] A. Oh, yes. Worcester County has considerably more customers.

XQ. Per area served? A. I would have to look it up.

XQ. It isn't that important. Do you know whether or not the NEPSCO Company has been seriously considering the installation of electronic equipment for doing centralized billing for the entire NEES system? A. Just a few moments ago I mentioned they have a study under way and that is being considered. I am not familiar in any detail with it, but I know that they are very definitely looking into the desirability and the economic savings that can be made, and, of course, the Gas company would benefit from this installation in the event it was found to be economically feasible from the System's point of view.

XQ. Doesn't that indicate to you that in the Management's view point, the economies can be effectuated by centralized billing? A. When you talk NEES System we are talking about billing customers—a million customers or so. That is something a little different. We have a

million customers in NEES and 235,000 customers in the Gas Companies on a combined basis. That is the whole point of this thing. The larger the volume you have, then you are probably able to [1836] substantiate a large scale high speed computer system. Now, I say, that the Gas Companies combined, I know, without question, they absolutely could not justify even a medium scale type computer system from an economic point of view. I know that and know it well.

XQ. You have other costs. You have personnel, labor costs are involved—wouldn't there be some savings in a better centralized billing, than if you had separate areas? A. Machine rentals are considerable. That would cost \$4500 to \$5000 a month.

XQ. Isn't the labor cost of performing the customer billing also a substantial item? A. No, and again, we discussed that this morning and it is not a major item, not a substantial item. It is one of the items.

XQ. You have the machine cost of customer billing, you have labor costs and personnel cost of machine billing. Isn't the personnel cost also a substantial item in relation to the rental of machines? A. Personnel cost is not a substantial item. Of course, the more sophisticated equipment, the lesser amount of personnel because you are paying a higher rental on the equipment and you would expect to use lesser people. They would have to be, of course, of a highly trained type and have the technical ability to operate the complex machines.

[1837] XQ. The type of billing machinery which you are presently using requires more personnel than the more complicated operations would require, doesn't it? A. The type of machinery we are using today?

XQ. Yes. A. This is a very, very simple thing. A girl can learn that in literally an hour or so. It is a simple key, they call it key driven. It has a number of keys; you drop

the bill in, make the impressions of those indicating the right symbols, and out it comes.

XQ. What I am referring to is not ease. How many girls does it take to operate it? A. Again, I mentioned this this morning. At the Norwood Gas Company I doubt if that girl is around that machine an hour, hour and a half a day.

Hearing Examiner: A single person?

The Witness: Yes, sir. There are only approximately 5,000 customers there.

Hearing Examiner: This machine has only one person, part time?

The Witness: Yes, sir.

By Mr. Nowlin:

XQ. Mr. Johnson, do you know what the tendency is in the utility industry, on a national viewpoint, toward centralizing—for the establishment of centralized billing as [1838] against a diversification? A. Definitely, I would say, that the centralized billing is, perhaps, predominant, more than predominant. In other words, of utility companies, most of them are on a centralized billing basis—billing only.

XQ. That would be with very few exceptions, as far as you know? A. Yes, sir. That is true.

XQ. At what point, Mr. Johnson, does it become—from the viewpoint of the number of customers, does it become feasible to have centralized billing on an economical basis? A. You can't pinpoint that. Again, it depends on the equipment, the distances you are going to travel, all kinds of other factors come in. I wouldn't select a figure unless I made—unless I was familiar with a specific circumstance.

XQ. Isn't the biggest factor the number of customers? A. You have to have sufficient volume. The volume decides the type of equipment you are going to use.

XQ. Volume is the number of customers? A. You can have, for example, with this large installation in Worcester, which uses key driven equipment, you would have the same efficiency I would imagine, now—I am saying this—you could take out two or three of the machines in Worcester and put them in another location and take two or three more from Worcester and put them in another location, and you wouldn't [1839] affect the cost of billing at all, because the girl is going to operate the billing machine practically all day long in Worcester and there are a number of machines there. It is a large installation. It wouldn't make any difference. The same thing with the Public Service. The Public Service, a large Company in New Jersey, uses the same type of equipment, National Cash Key Driven Machines in their billing operation, as is used in Worcester and other companies I described.

XQ. Doesn't the whole thing depend on the number of customers and the number of bills you have to render? A. The type of equipment depends on that—the Public Service—they have a centralized installation in Newark, New Jersey. They could decentralize into Trenton and Camden and some of the larger cities and it would not result in any increased cost.

XQ. Isn't it a fact that I can fill out a bill of one customer on a typewriter, and if I have got 25 customers, it probably requires two typewriters; 50 customers, it might require a billing machine. Isn't the type of customer billing dependent entirely upon the number of customers you have and the number of bills that are rendered? A. When you address the bills, you usually use an addressograph plate or punch card, and it wouldn't have anything to do with it. As long as you have sufficient volume, on a decentralized basis, it wouldn't make any difference.

[1840] XQ. I am asking you at what point the volume

is sufficient to justify a change in the machine equipment?

A. On a monthly billing basis, you can start to seriously consider conventional punch card equipment when you get approximately 100,000, 150,000.

XQ. Well, now, you mentioned 235,000 gas customers here. Isn't it about time to consider it? A. I don't say you are going to make any saving. It could be, even, at a break even point. As a matter of fact, I have talked at quite some length to a man who is on a computer committee for a large utility, and they have recently placed an order for this particular computer and they say they are at the break even point when we take this thing and when we get it, we are not making any saving but we are starting toward progress, we are going to have to rely less on employees. We will get some other benefits out of it but they will not be economic at this particular point. Many utility companies who have gone to this large scale equipment recognize this. They are not making any economies to speak of at all, but they are moving forward.

XQ. Mr. Johnson, assuming that the combined companies were separated from the NEES System, and were to request—were to ask, rather, for your opinion, as to whether or not they should install a centralized billing arrangement, what would your answer be? [1841] A. I would not give them a definitive answer until I made a study, in sufficient depth to give them a sound recommendation.

XQ. How can you give us an opinion then? A. That is a different case. Here, I say, in my judgment, these decentralized billing centers will not result in any substantial increased cost, and you will not make any substantial savings by doing it on a centralized basis.

XQ. Is that the answer you would give the Management? A. I told you I would make a study in sufficient depth.

XQ. I may have covered this, Mr. Johnson. How are the bills now sent out—on a monthly or bi-monthly basis? A. They were bi-monthly, all but Lynn and they are bi-monthly in the pro forma, all but Lynn.

XQ. Now, is there any practical reason why centralized billing could not be continued on the present basis even though the gas companies were separated from the electric companies? A. I do not know of one arrangement where utility companies are sharing equipment, personnel, etc., for a common billing function, or for any other as a matter of fact, meter reading or anything else. I have no knowledge of any of them doing this. It is just not practical.

[1842] XQ. I asked you why isn't it practical, despite the fact the industry would prefer to have them separated?

A. You come into problems of scheduling and problems of personnel. You are going to have all the personnel on one company's payroll and you may have unions in each one and they may say, why don't we have this billing function and the other will say, no, no, we are going to have them over here.

Hearing Examiner: What did you mean by schedule. Is that a matter of priority of work?

The Witness: That is what I mean. The company that would have the billing equipment would, maybe, have a tendency to do its own first.

By Mr. Nowlin:

XQ. Well, of your knowledge, do you know of any practical reason why centralized billing could not be continued on the present basis except that it would not be the choice of the companies? A. I would never recommend it.

XQ. Why not. A. Because of the problems involved in scheduling, employees, and you are not just doing your own work. Here you are relying on another party to perform an essential operation for you.

XQ. Do you know, whether or not, in the industrial areas, and at least in professional areas, that many doctors and [1843] professional people have a centralized billing and collection agency doing their work? A. I don't think we can compare doctors to utility companies. We have two hundred some thousand customers. I don't think a doctor puts out that many bills a month.

XQ. I can see where it is a matter of choice, but I still can't understand your testimony as to any reason why, from a practical matter, it couldn't be done—continuing exactly as it is today. A. In the Wall Street area, where they have a service center, a brokerage house utilized the services of the service center, and found they weren't getting their own work out on time. They installed a computer just to be sure they get their own statements out on time. It is not a satisfactory arrangement when you have a day to day operation and must get your work out.

XQ. I want to ask you the same thing with respect to meter readers. It isn't customary in the industry to have joint meter readers. Is there any reason why that service couldn't be continued to perform as it is today? A. Somebody would have to get the book first, to do the billing, either the electric company or the gas company, whatever it is going to be, or the water company. This is, again, a subject that has been discussed at utility seminars for years on end. They even talk about reading water meters [1844] together, electric meters together, gas meters. It has never been found practical. As a matter of fact, when I worked for a utility company we considered that with another company and it was turned down flat because we felt we had no control over our work.

XQ. Isn't it a fact that your firm, Stone & Webster, and some of the other service companies render different types of services for various utility companies. A. We render

consulting services. We don't perform any routine operations such as billing, meter reading, stuff like that. That would be prohibitive.

XQ. Don't you perform several functions, perhaps at a higher level than meter reading, for various utility companies? A. We perform a number of services for utility companies and industries.

XQ. Where do you draw the line to render services, what is practical above the line and not practical below the line? A. Are we talking about consulting services?

XQ. You are more familiar with the services rendered by Ebasco than I am and by Stone & Webster. I am asking you if there is some parallel. The service companies do perform services for various utility companies in certain areas? A. We perform consulting services, yes, sir.

XQ. The consulting services are different from the manual [1845] services of meter reading and so forth, but it seems to me the same principle would apply. A. Here, we are talking about production. We don't render production services.

XQ. Mr. Johnson, directing your attention to Division's Exhibit No. 2, put in evidence this morning— [1846] A. That is the NEES Gas Company statement. Yes.

XQ. Now, under the actual per customer costs, you note that in this exhibit, that the figure is \$2.12 for Northampton Gas Light as compared with \$5.38 for the Central Massachusetts Gas Company.

How do you account for this wide variance in the per customer cost of these two customers? A. I discussed Northampton this morning.

In the first place, these costs in here—cost per customer—do include much more than customer accounting functions.

XQ. I am talking just of the customer accounting payroll cost, now. A. Yes; but as I say, sir, for example, going to two-two-two on Lawrence, we have a janitor in there. Well, he is not really part of customer accounting, and yet, he is included in that figure.

XQ. That still does not explain the difference between the two figures, though. A. Well, not trying to tie it to the five-three-eight; not trying to go into the two-one-two, because I don't think that you can compare them—these figures just cannot be compared; but there are basic differences between Central Massachusetts Gas Company and Northampton.

[1847] Central Massachusetts operates three offices; Northampton Gas has one office. This is a major difference, but these figures, I do not concur that they measure the cost per customer.

XQ. Well now, Central Massachusetts has 9,595 customers, and Northampton has 8,023 customers. There is not much difference in the amount of customers. Why does Central Massachusetts operate three offices and Northampton only one? A. Because of the territory served.

XQ. What is the difference in the territory served? A. Well, Central Massachusetts, has an area of approximately 200 square miles; Northampton about 47. You can look at the map on page 106. You will see that Central Massachusetts is a wider area.

XQ. Well, I think we said a while ago— A. Northampton on 606, is a more compact area.

XQ. Well, do you mean that the larger area in Central Massachusetts justifies the three separate offices? A. Those three offices are there to render adequate service to customers.

XQ. Well then, Central Massachusetts area is larger than the other three gas companies we have been talking about, is it not? That is, North Shore, and [1848] Mystic

and Lynn? A. Well now, we will have to look at each one of those. All of these companies are different. It is rather hard to try to say—try to compare them—Wachusett is 88 square miles; Lawrence is 86; North Shore is 85; Mystic, 102; Norwood, 10; and Lynn 40.

Central Massachusetts is the largest area in square miles—200; as a matter of fact, it is practically double, sometimes four times as large, as far as area served, as some of the others, particularly of Lynn. 20 times as big as Norwood.

XQ. Well, if the service area of Central Massachusetts is considerably larger than that of Lynn, why does the per-customer pro forma cost of Lynn, amounting to \$7.48, exceed the per customer cost of \$7.32 for Central Massachusetts? A. As I say, I do not concur that these figures can be compared, because of differences in here.

XQ. Well is it your contention that the area served makes the difference? A. That is one of the factors. One of the factors; but these costs that you have here include personnel that are included in the customer accounting grouping in this report. They are not necessarily customer accounting employees or employees who devote full time to customer accounting work. Some of them are telephone operators; [1849] some are janitors; some are messengers.

XQ. I believe, according to your testimony this morning, that on your pro forma basis, you have all of these companies on a uniform per customer basis. You have all of these companies on a uniform per customer basis. Isn't that right?

Uniform, functional basis. Is that right? A. It is a grouping. They are grouped under the customer accounting heading in here.

XQ. They are not all grouped in the same way? A. They are all grouped the same way but they contain personnel

other than personnel who engage in customer accounting activities.

For example, Lawrence, on 229, they have a telephone operator, a messenger, and a janitor.

Mystic Valley on page 441, we have a janitor, fireman, watchman, messenger, supervisor of mail room, telephone operators.

So they are not customer accounting employees. They are grouped here under customer accounting, because we have these three basic groups, under the Treasury and Accounting. We have the general, the customer and the stores. These people are grouped here for convenience and for administration and supervision.

So what I am saying, that as far as Mystic Valley [1850] is concerned, for example, the five-twelve-eight hundred, maybe we should take out the five firemen at \$20,000 and the messengers at twelve-two; and the portion of the supervisor for the mail room at four; and some of the telephone operators, in order to get this on a somewheres near a comparable basis.

XQ. Did you not testify this morning that in projecting your pro forma estimates, that you started at the same base for all these companies? You made the necessary adjustments; you put them all on the same footing? A. I analyzed the personnel that were required to perform the various accounting operations in these companies. I then determined the number of people that would be required in those same functions, on an independent basis; simply because they fall under this customer accounting grouping does not indicate that they are wholly and exclusively customer accounting employees.

XQ. Well, did you not treat each company on a pro forma basis on the same footing? A. Yes, each company is treated that way. That is what I say throughout this report. You will find in this customer accounting group

personnel that are not engaged in customer accounting activities.

XQ. Then they are all on the same basis, are they not? [1851] A. Oh, no! Here, look, Mystic, you have five janitors.

XQ. Well, it is a bigger company, is it not? A. Yes, it is a bigger company. That was one main office and ten branch offices, different than Lawrence, that has one office.

XQ. Well now— A. They are all different.

XQ. I thought you were in disagreement with some of the allocations of customer accounting on actual basis; when you started to make your pro forma effort, you made all these adjustments to put the companies on an informal basis. A. I did not look at the allocations when I first started out here. I constructed and determined the number of personnel that were required to operate these companies on independent basis and then on a combined basis, I determined the number of people that were required.

XQ. Well, I repeat again, as I understood the testimony this morning, in making your pro forma estimates, you made whatever adjustments were necessary, and so forth, to get these companies in the same category—the same classification—applicable to each of these companies, so they would be uniform. A. I said I established the organizational structure so we would have a similar pattern: Stores, general accounting, [1852] customer accounting. That was the reason that, for Lynn, we moved the payroll and mail, so we would get them all on the pro forma basis, so they would be in comparable headings or groupings.

XQ. Now, no where have you set up a pro forma organization for customer accounting for a particular company. You set up the number of persons and costs which

you thought would be applicable or necessary for that particular company, did you not? A. Yes, sir.

XQ. Did you differ from those adjustments when you went from company to company? A. Well, the personnel requirements differed because of the different situations in each one of the companies.

XQ. But the personnel classifications are the same? A. No, they are not all the same because we have different unions.

XQ. Well then, as I understand it, your pro forma estimates are subject to the same vagaries that the actual figures were that you mentioned this morning. A. What actual figures did I say?

XQ. The actual figure this morning, where you said that there were three people not reflected in the actual figures that you show up in the customer accounting costs; [1853] that some of the general accounting employees were doing work that you thought ought to be included—I thought you said. A. No. You asked me this morning about Northampton and I said that in some of these smaller offices, and particularly the one you selected—Northampton—some of the general accounting personnel did perform customer accounting functions.

XQ. Therefore, you included those under your projected pro forma figures? A. In the pro forma figures, where we show in the customer accounting group, the personnel in there are adequate to perform the customer accounting functions. In addition, in that grouping you will find messengers, janitors, telephone operators, and other personnel who are not engaged in so-called customer accounting activities.

As I mentioned this morning, where we had one of them, we did not establish for example, a building service group. They are here for Administration and Supervision.

XQ. Well then— A. Normally, you are going to find in these companies that the customer accounting group has more personnel than the stores or than the general accounting group and that is a logical place to put them and the customer accounting working supervisor, is normally always in the office, [1854] so he can give them good and adequate supervision.

XQ. Well, isn't it a fact then, Mr. Johnson, that the categories reflected in your summaries on page 40 of Exhibit 91, do not portray the true facts which they propose to? A. Mr. Nowlin, I explained that this morning.

XQ. Just a simple answer. In other words, you have in your customer accounting items over here on page 40, items that do not literally belong there, have you not? A. No. Everything that is shown there belongs there. The whole \$415,600 belongs in customer accounting, because it is shown and reflected throughout this 58-A, in the customer accounting section of each of the respective gas companies.

In other words, as I have stated before, to account for the \$415,000, if you turn to each of the sections marked customer accounting, you will be able to determine the increased cost or the loss of economy because of severance in that particular grouping and I think the word "grouping" is most important here.

Hearing Examiner: The record will show what the witness has testified previously, this morning; what he said this morning; what he said on his first appearance. Now, can we not let the record stand as it is, instead of arguing with the witness about what he said in the past [1855] and what you claim he said in the past?

Mr. Nowlin: I am not arguing with him. I am trying to get a clarification of what he did say.

Hearing Examiner: The record shows what he said. Why go into asking these questions.

Mr. Nowlin: I think, Mr. Examiner, as a matter of legal principle that in cross examination, you are entitled to a certain amount of leeway and repetition.

Hearing Examiner: Well, in my opinion, you exercised it pretty freely. There must be a stopping point somewhere.

Mr. Nowlin: I hope there is.

By Mr. Nowlin:

XQ. Directing your attention, Mr. Johnson, to page 342 of Exhibit 58-A, you have certain personnel set up there for pro forma customer accounting for Lynn Gas Department.

Is that correct? A. That is right, sir.

XQ. And that totals—the payroll costs total \$279,500. Is that correct? A. That is right, sir.

XQ. And that is for 69 employees, is that correct? A. Yes, sir.

XQ. Are all 69 of these employees considered necessary by you for the performance of this customer accounting? A. Yes, sir.

[1856] XQ. Then there are no employees in this column who do not belong in customer accounting? A. Yes. This looks very much like each and every one will be engaged in customer accounting activities except the Chief Clerk at Marblehead. He may do a little sales activity.

XQ. Now, with respect to each of the other gas companies, would you say that the number of employees in the character of their work, shown on the customer accounting, are necessary to perform that function? A. I am sorry?

(The pending question was read by the reporter)

Mr. Nowlin: I am just relating the same question to all of the companies.

The Witness: They are necessary, but in addition, there are personnel also included in similar headings under

customer accounting grouping that will not be required to do customer accounting activities and also, in Mystic Valley, we show the customer accounting grouping but we also have a machine grouping and the machine grouping and the customer accounting grouping are required together, to perform customer accounting activities and part of the machine group perform some general accounting activities. Again, there are minor differences which are text, which are described in Exhibit 58-A.

[1857] XQ. In estimating the customer accounting payroll cost on a pro forma basis for the eight NEES gas companies, did you make any study or comparison to determine how these pro forma costs compared on a per customer basis with similar costs of non affiliated Massachusetts gas companies? A. Yes, sir. I did.

XQ. Do you have available the comparison which you made? A. This was included and shown in Exhibit 90. I was not familiar with these cost figures until after the pro forma organizations had been established and made firm.

XQ. What use did you make of these comparisons or statistics then? A. I simply wanted to see how the NEES companies stacked up against other Massachusetts gas companies, both on an actual basis and on a pro forma basis.

XQ. Now, are you referring to the commercial classification on this Exhibit 90? A. Yes, sir.

XQ. Isn't it a fact that Norwood is the only one of the eight NEES gas companies that has no joint customer activities with any of the other NEES system companies? A. That is right, sir.

[1858] XQ. Isn't it also true that for this reason, Norwood's pro forma customer accounting costs remain unchanged as compared with its per books cost? A. Well, the cost, the personnel requirements remain the same but

Norwood did have through the Treasury organization, of course, did have association with other companies, although the meter reading, and the billing—all of those customer accounting activities, were carried on right in Norwood.

XQ. I am talking about present time; the customer accounting. A. That is what I said.

XQ. So that my statements are correct? A. Except, as I say now, Norwood belonged to the Southern District Treasury Organization which consisted of the Quincy Electric Company; Weymouth Light and Power and Norwood Gas and the Assistant Treasurer of that group served for Norwood and his staff; so of course, he exercised a certain degree of supervision and administration over the customer accounting activities of Norwood. They came under him as the responsible officer.

The routine activities were carried on in Norwood.

XQ. Well, it is a fact that there is no change in the actual pro forma customer accounting cost of Norwood? A. There could be a change in the cost but there are no changes in the number of customer accounting employees [1859] pro forma versus actual.

In other words, there were six employees, pro forma, at 22,412, of January 1, 1959 levels. That is page 717 and page 710, actual basis. The same six, 22,412.

XQ. Now, how do you explain the fact that Norwood's customer accounting payroll costs on a per customer basis are lower than the pro forma per customer cost of any of the other seven NEES gas companies?

I am talking about payroll costs in each case. A. Well, that is not the full measure. You look at the commercial costs during 1958, for Norwood Gas as filed with the DPU, it is five-six-nine.

XQ. Then again, as I understand it, you think that some of the general accounting administrative costs should have

been included in the per customer accounting cost of Norwood? A. No; but I do know that as far as the Norwood office is concerned, you see, we only have one general accounting employee there, during the year 1958, so some of the customer accounting employees, being such a small office, were flexible and able to perform certain of the routine, general accounting activities. The books were kept over in the Southeastern District Treasury; Quiney Electric.

[1860] XQ. Generally speaking, Mr. Johnson, isn't it a fact that per customer accounting costs in a large gas company would tend to be smaller than such costs for a smaller company? Per customer? A. Again, that depends. You could have a large company where they had no offices. You could have a smaller company that had a number of offices. It all depends on the circumstances; how it is organized; what facilities they provide for customers, and so forth.

(Brief recess)

Hearing Examiner: Let us come to order.

By Mr. Nowlin:

XQ. Mr. Johnson, on a per books basis, who determines what the allocation will be of the customer accounting cost, and the general accounting cost? A. The allocation of accounting costs are determined at local levels in the field, by District Treasury Organizations, the primary responsibility being with the Assistant Treasurer in the area, for which he is responsible.

XQ. Now, do you have any idea of what amount of time is devoted to the allocation? A. Well, each time that there would be any change; a new employee hired or any major change in work load, the responsible Supervisors or Administrator or Assistant Treasurer, would review it and make sure that in their [1861] opinion, that the allocation was properly made between electric and gas.

XQ. Now, how much time would that involve during the making of those allocations? A. That is rather hard to specifically say. It would depend on what is involved. They would probably assemble data in order to make their comparison or conclusion and to reach their conclusion, I would not be able to say exactly what was involved.

I know that the methods of allocation did result in a minimum of clerical effort.

XQ. Could you give us an estimate of the time devoted by the Treasury and associations in making these allocations? A. Well, I guess, I would imagine at the time of a periodic review, which took place at least annually, they would probably spend, well, again, it depends on the area, but they would spend probably several days reviewing all of that. Not at one time. In other words, they would probably take groups at a time but they would have to spend considerable time to arrive at these sound conclusions, which they have.

XQ. Do you mean that would take the time of the officials of each company? Each gas company? A. No. The Assistant Treasurer is the one who has [1862] the responsibility, at the end of it; the managers within the companies are the ones who come up with the allocations, initially.

XQ. Could you give us just a rough estimate as to the hours or dates, and so forth, that the eight gas companies in the aggregate would devote to the questions of allocation? A. I would not be able to give an estimate of the time involved.

XQ. Well, do you think— A. It is review, mostly because the companies are established and the allocations have been made. As I say, they are reviewed annually, and they are reviewed when any changes are made.

XQ. Well do you think it would take an aggregate, say, of a month's time? A. Oh, no, sir. No, sir. I don't see how it could possibly take a month.

XQ. Would it take a week? A. I say, I don't have any idea, but I certainly say it would not take a month.

XQ. And in any event, on the pro forma basis, no time would have to be devoted to an allocation, would there?

A. Not if they were a gas company, but of course, you certainly would have allocation between the various accounts in order to comply with the DPU.

[1863] XQ. But you would not have the allocation between gas and electric. A. That part would be missing but certainly, very definitely, you would have allocations to be sure that you were conforming with the Massachusetts Department of Public Utilities Regulations.

XQ. Well, isn't that also true at the present time? A. Yes, sir.

XQ. So now, I think on Direct Testimony, you estimated that the separation costs would amount to \$250,000 over and above your estimated severance cost reflected in the Ebasco studies. Am I correct on that, on recalling that testimony? A. Yes.

XQ. What was the basis for that estimate? A. Well, I knew what was involved and I had a good idea of what those costs would be.

XQ. Did you make any specific study of these costs. A. Yes. I made enough study, in sufficient depth, to come up with the \$200,000 that I mentioned in my direct testimony.

XQ. Why did you make that study? A. Because I knew that upon severance, there would be quite a considerable amount of work involved and a costly operation in order to establish these companies [1864] on an independent basis that was not reflected in here.

XQ. Well, was that one of the instructions given you by Mr. Quig, to make such a study? A. I would not be realistic; I don't know whether Mr. Quig told me to do that or not. I would not be looking at the whole study

realistically unless I thought, how are we going to get new meter reading sheets? What is that going to cost? We need new customer history records. There are a number of things involved. We have joint records, new addressograph plates, new cards for addressing the customers' bills.

XQ. Now, in arriving at your estimate of \$250,000, what dollar items actually went into that total? A. As a rough estimate, let's say we would have to re-route the accounts and I would say that a conservative figure on the cost per meter to re-route an account, would be fifty cents. So there is some \$100 thousand dollars we have, to prepare new service location records, for all those combination accounts. We would have to prepare new customer history records for all those combination accounts. If I remember correctly, I think that the concern that does that, when they initially set it up, I think it is approximately \$1.00 a record, including the equipment so I would imagine that it would be, again, about fifty cents per record without the equipment, to house it in.

[1865] XQ. Well, now, why did you not include those costs then in the estimated severance cost? A. Well, they are non-recurring.

XQ. Then why did you make that study, if it would not be included in the severance cost? A. Because I wanted to know, in addition to this personnel requirement, what else is involved in this. What does it cost. It is not included in this report. That is the reason that I mentioned it in my testimony.

Mr. Nowlin: Mr. Examiner, I think that is all I have, at the present time.

Hearing Examiner: Have you any questions at this time, or would you like to reserve redirect, Mr. Vorenberg?

Mr. Vorenberg: Again, as with the other witnesses, we would like to reserve redirect.

I would like to just ask a couple of short questions for clarification, if I can.

Hearing Examiner: Very well.

Redirect Examination

By Mr. Vorenberg:

Q. Mr. Johnson, why were functions other than that you have described as strictly customer accounting functions included under the heading of Customer Accounting in the Ebaseco report? A. Because when they were included in that grouping, [1866] we provided for administration and supervision and it was a logical and convenient place to locate them.

Q. Well now, would changes in classification as between customer accounting and other groups or headings going from "Actual" to "Pro Forma" have any effect on the total loss of economy shown in the bottom line of page 40?

A. No, sir. Very definitely not.

Mr. Vorenberg: Thank you.

Hearing Examiner: You may retire from the stand.

The Witness: Thank you, sir.

(Witness excused.)

Hearing Examiner: Your next witness.

ROBERT CAHAL

was recalled as a witness, and having been previously duly sworn, was examined and testified as follows:

Cross Examination

By Mr. Nowlin:

XQ. Mr. Cahal, would you briefly state the area of your responsibility for your portion of the Ebaseco study? A.

was responsible for reviewing the business development or sales operation of the NEES system.

XQ. Is that for the gas companies and for the electric companies? A. That is correct. The electric and the gas sales [1867] operation were reviewed.

XQ. That included sales objectives and the activities of personnel, expenses, and results. Is that right? A. That generally covers the scope of the work.

XQ. Now, prior to the undertaking of your actual study for the Ebaseco report, did you make any independent study or evaluation of the actual operation of the NEES system with respect to sales to determine whether or not the sales activity should be curtailed or implemented. A. I made such an analysis, yes, sir.

XQ. Did you reduce that analysis to writing? A. No, sir.

XQ. Well, what was the nature of this study? Was it just a general observation or did you make a detailed study and analysis of various facets of the sales? A. It was in some detail, on most aspects. It was an analysis of statistical records. It was a review of promotional materials, that these companies were using. It was also a review of the various sales policy statements of the company.

XQ. Now, turning to your actual study which underlies the ultimate conclusions, just how did you go about that? A. Well, first of all it required an understanding of the market conditions that these companies faced in [1868] terms of the types of customers; the competition, the general promotional climate in which they operated. Compared with that, was the analysis of the type of sales organization; the type of promotional activity that would be required to adequately develop the market potential of the area.

XQ. Now did you, in the course of your study, make any comparisons of either the actual or the pro forma

results with those of other non-system companies? A. Yes, sir.

XQ. What companies did you include in those comparisons? A. I included the other Massachusetts companies.

I included New England companies in general, that I felt were comparable to the NEES gas companies and I also used general survey information on other companies in other parts of the country.

XQ. Do you know how your comparisons of the eight NEES gas companies with the other gas companies in the area worked out? Were they favorable or unfavorable? A. Regarding what?

XQ. Sales promotion, for example. A. I would say that the NEES Gas Company sales operation was typical of the other operations. In other words, because there are variations, of course, between the eight companies themselves; therefore, you had a range of effort. You had a range of result, and these comparisons showed that in [1869] certain instances, they were never at the extremes of this; that they were well, typical of the results in the effort that was being achieved in other companies.

XQ. Well now, did you reach the conclusion that the NEES companies were doing as well or better than the other companies in Massachusetts? A. Yes.

XQ. Well, maybe I should ask you to amplify that.

Do you mean, by way of better sales results, or sales efforts? A. Well, in measuring sales effort, this is difficult to compare sales effort with precise statistical measurement because so much influences the type of sales effort and the resulting cost of that effort. In terms of results, results cannot be isolated, I don't believe, from the market conditions peculiar to each area, and so in evaluating the comparative data, I endeavored to view the results in relationship to the peculiar marketing problems that each company faced.

XQ. Did you make any comparisons of the sales promotion costs of the eight NEES gas companies with those of the other gas companies in Massachusetts? A. I did, merely to provide a framework of reference, as I indicated. I think that a straight comparison, a statistical comparison of sales costs, without fully [1870] understanding the factors behind each cost, would be misleading, and as I mentioned before, what I was looking for was to make certain that for the NEES companies, these comparisons revealed no real unusual cost situation, and as far as specific company by company comparison, the figures were available to me, but I used it in this general framework rather than the specific company by company comparison.

XQ. Did you reduce these promotional costs to the NEES companies to a per customer basis? A. Well, I would like to clarify what we are talking about in terms of cost. New business can be a very general term, covering the total promotional effort or total sales effort of a company.

In addition, new business expense can be a very specific accounting classification.

Therefore, I reduced new business expense in the narrow sense on a per customer basis and I also reduced it on other comparative bases.

For example, percentage of revenues to the '58 sales cost on a per customer basis. There are several comparisons that one might use, and as I indicated, I don't feel like any one of them is completely satisfactory but when several of these are weighed together, I think that you get a fairly reasonable picture.

XQ. Did you also reduce the new business expense of [1871] the non-affiliated Massachusetts gas companies to a per customer basis? A. I had available to me, figures that these companies had reported. I did not do the reducing myself.

XQ. How did the expense of new business of the eight

NEES companies compare with that of the non-affiliated gas companies on a per customer basis? A. New business expense in this narrow accounting classification?

XQ. Yes. A. Well, some of them were lower than the average; some of them were above average. The system average is—I think it is in that Exhibit No. 90. It is below the other non-affiliated Massachusetts gas companies on this basis.

XQ. Directing your attention to Exhibit No. 90 and particularly the column there, "New Business", I noticed the average per customer cost of new business for NEES company was \$5.28 and that the average for the other Massachusetts companies reflected on there, was \$6.10. Is it fair to assume therefore, that the NEES companies were spending less per customer for new business than the non-affiliated companies were? A. The only assumption that you can draw from this, is the fact that the classification of promotional expense [1872] in new business was less than the other Massachusetts gas companies.

XQ. Well, could you give us any other comparison? A. Well, for example, in one of the considerations that I indicated a while ago, is the fact that the total—the company's total promotional program, particularly among these companies, all of which merchandise, that they are spending a considerable amount of money to promote and sell appliances but this money is charged against their merchandising operation.

However, this money may be just as effective, in some cases may be more effective, in building load than money that is allocated to new business.

Therefore, when you consider the new business expense plus the merchandising sales expense, we might call it, my comparison showed that on this basis, that NEES Gas Companies were spending slightly more than the other Massachusetts gas companies on a per customer basis.

Now, this is something that is a matter of allocation and it is a matter of management decision. Management wants to promote through merchandising. It is a perfectly reasonable device to do so.

XQ. Have you any comparable figures to show us on the merchandising cost? A. I have them in my working papers.

XQ. Would you supply that, please, sir? [1873] A. When we add the new business account to the cost of merchandising, except for the cost of the merchandise itself, we will come up with a figure for the NEES Gas Division as a whole, of \$10.19 a customer indicating that their merchandising effort was almost the same size as their new business classification. The total for all other Massachusetts gas companies was \$9.51. The total for all Massachusetts gas companies including NEES and the non-affiliates, was \$9.68.

Actually, I feel that the differences here are not really significant; that the comparison between \$10.19 and \$9.51 is a matter of being in the same general area.

XQ. Now, do you know whether or not, Mr. Cahal, the eight NEES gas companies and the non-affiliated gas companies in Massachusetts all began to receive natural gas from Tennessee at about the same time? Is that correct?

A. I am not exactly sure of the chronological order. I believe that the Algonquin customers received gas slightly ahead of Tennessee but it was in the same general period of time; maybe over a period of, maybe a difference of a year or two.

XQ. Do you know which of the independent gas companies, non-affiliated gas companies, in Massachusetts, listed on Exhibit 90, obtained their gas requirements from Algonquin? [1874] A. The companies that received their gas supply from Algonquin are the Boston Gas Company; the Brockton-Taunton Gas Company; Buzzards Bay Gas Company; Cambridge; Fall River; and New Bedford.

XQ. Now, I am not trying to disagree with you. My

recollection of the record is that the Algonquin was completed a few months, or maybe a year, after the Tennessee Gas transmission line. Is that your recollection of that? A. Well, my recollection is not very specific. I could have gotten them mixed up.

XQ. I believe, in any event, we can agree that the Algonquin Gas did not come in prior to the Tennessee Gas. Isn't that correct? A. I don't know.

XQ. Now, the BTU content of the gas received in the New England area from both Algonquin and Tennessee is substantially the same, is it not? A. I would assume that it is, yes.

XQ. And as I recall, from the direct testimony, the rate in the New England area for all gas companies is essentially the same basic rate. Is that right? A. I made no study of the purchase contracts.

XQ. My recollection is, it was testified there was the same rate applicable to New England companies. Is that your understanding of it? [1875] A. I did not testify to it. I think it was covered in other peoples' testimony.

Mr. Vorenberg: You are talking about just Tennessee, or both companies?

Mr. Nowlin: Both companies. I know Tennessee has its own rate, according to testimony. I was thinking Algonquin testimony was Algonquin and Tennessee were essentially the same basic rate. Am I correct in that?

Mr. Vorenberg: I am certainly not the person to testify. I would rather think that Mr. Cahal may not be the person to testify,—

Mr. Nowlin: I don't think it is necessary.

Mr. Vorenberg: —on that point.

By Mr. Nowlin:

XQ. Now, I believe in the course of your direct testimony, Mr. Cahal, you stated one measure of growth could be found in average use per domestic customer.

Is that correct? A. I believe that is correct. The growth, in the average use per domestic customer.

XQ. Therefore, isn't it an important measure of the success of a gas company's operation? Wait.

Therefore, is it an important measure of the success of a gas company's operations, its records of its sales per customer? [1876] A. I think that the records of its sales per customer in relationship to its marketing opportunity, has to be considered in evaluating the sales success of the company.

[1877] By Mr. Nowlin:

XQ. If you were comparing gas companies in the same geographical area, wouldn't that be a good test of the success of operations? A. If you took into consideration the type of area, competition, population changes, growth, new housing construction. All of these factors also influence how well the gas company can do. The gas company is not selling in a vacuum. It is selling up against competition. It is selling up against the limitations of the type of housing, the income levels—all of these things are mixed together to provide what might be loosely termed the market potential, and I think that the measurement of a gas company's sales success has to be viewed against what potential it had and how well it capitalized on that potential.

XQ. Sticking for the moment to the State of Massachusetts, which is a comparatively small area in relation to some of the other states, wouldn't it be fair to say that the eight NEES gas companies and the other unaffiliated gas companies are confronted with almost the same problems and the same assumptions? A. No, sir, not in this past decade, which has been pretty well documented by the census figures that have come out of the startling changes that have been taking place in people not moving necessarily from Massachusetts to another state, but more the people moving into the suburbs, moving out of the central cities

into fringe areas, the redevelopment or the deterioration of the [1878] core of cities. The gas company is at the mercy because it can't move its franchise area. It is at the mercy of where people are moving. It may try to stimulate growth in its area, but by and large it has to find its market where it is, and if a gas company is serving a town that has no growth, in fact, a losing population, no new housing where it is really a very fine market for appliances and heating equipment, if it is confronted with these changes one could right across the city limits or right across the river can have an entirely different growth picture, not only in terms of total, but in terms of this average that we are talking about.

XQ. Well, now, looking at the non-affiliated gas companies reflected on Respondent's Exhibit No. 90, and the eight gas companies in the NEES System, except perhaps for Boston Gas, wouldn't these individual gas companies in the NEES System that are non-affiliated experience about the same type of transitory problems and difficulties that each one of the others face? A. No, sir, because of the fact that these are relatively small areas. In other words, a company that serves a small urban area that has had this fringe growth, this suburban growth, is in a much better position than a company that is serving an area that is not experiencing any growth, because the growth is reflected in new housing. New housing is reflected in sales, particularly when gas heating is a prime market.

XQ. Do you know of any wide differences that have occurred in [1879] any of the NEES companies area and in the non-affiliated companies area reflected on 90? A. Yes, sir.

XQ. Now, which ones would you pick out as having unusual occurrences? A. Well, take the non-affiliated companies, we find that companies like Haverhill and Lowell,

Springfield, Worcester, Brockton-Taunton, these companies have served areas where the population, particularly in the fringe area has increased more rapidly than any area in the NEES System except Norwood, which is a self-contained small town that has grown very well.

XQ. Did you make any comparison of the per customer gas sale for 1958 of the NEES gas companies with the per customer gas sales for the same year for the independent gas companies in Massachusetts reflected on Respondent's Exhibit No. 90? A. Yes, a comparison of the domestic use per domestic customer.

XQ. The customer gas sales? A. Yes.

XQ. What was the result of that study? A. Well, it showed at that point that there are companies in Massachusetts with higher average use per customer and showed that there are some gas companies in Massachusetts with lower average use per customer than the general NEES area.

XQ. Do you know how the average of the two groups compare? [1880] A. The average of the two groups, I believe that the average of the non-affiliated companies was slightly higher than the NEES companies.

XQ. What do you mean, Mr. Cahal, by slightly higher—ten percent or twenty percent or what? A. I am sorry. Again, I wouldn't be able to answer that without referring to some working papers that I have.

Mr. Nowlin: Mr. Examiner, the staff has prepared some statistical compilations from the records obtained from the Department of Public Utilities of the State of Massachusetts and from information contained in exhibits in the record, which we would like to introduce into evidence, but I would imagine from my experience this morning that counsel for the respondents would like to have a witness on the stand to identify and make a statement as to what these exhibits purported to show.

Mr. Vorenberg: Could we see the exhibits?

Mr. Nowlin: I am going to give them to you.

Hearing Examiner: Do you want to produce the witness now?

Mr. Nowlin: Not unless it is necessary. I was inquiring as to whether or not counsel for the respondent wanted me to produce a witness to produce these exhibits or whether he would accept them without a witness.

Hearing Examiner: Well, they wanted to see what you have there, naturally.

[1881] Mr. Vorenberg: Without having seen them—

Hearing Examiner: All right. Put Mr. Gishman on the stand.

Will you please retire temporarily?

(Witness temporarily excused.)

Whereupon,

SAMUEL GISHMAN

resumed the stand and testified further as follows:

Direct Examination (Continued)

By Mr. Nowlin:

Q. Mr. Gishman, do you have before you a set of statistical compilations, the first one of which is entitled: "Eight NEES Gas Companies Statement of Total Domestic Gas Sales and Revenues—year 1958", and the second one bearing the same title except for 1959; the third one entitled "Eight NEES Gas Companies Statement of Total Gas Sales and Revenues for the Year 1958," and the subsequent one bearing the same title for the year 1959? A. Yes.

Q. Were these statistical compilations prepared under your supervision? A. They were.

Q. Do you believe that the information reflected therein is accurate? A. Yes.

[1882] Q. Would you describe what each one of these compilations purport to show and the source of the information reflected thereon? A. Yes, sir. These schedules show, taking the first one, namely, the eight NEES gas companies statement of total domestic gas sales and revenues for the year 1958, this shows for each of the eight NEES gas companies under the first heading "number of domestic customers as of December 31, 1958." The figures in this column were obtained from Respondent's Exhibit 58-A.

In the second column shown under "Domestic Gas Sales—thousand cubic feet," this column shows the number of MCF sold by each of the gas companies to domestic customers in the year 1958, and the figures in that column were obtained from annual returns by each company to the Massachusetts Department of Public Utilities for the year 1958.

The third column, which is headed "MCF Per Customer" is simply an arithmetical computation dividing in each case the MCF by the number of domestic customers.

In the fourth column, which has a general heading "Total Domestic Operating Revenue" under the column headed "Amount", there is shown for each of the gas companies the revenues from domestic gas sales. These figures were taken from Respondent's Exhibit 58-A.

The next column, which is designated "Per Customer" [1883] is again an arithmetical computation obtained by dividing the number of dollars shown by the number of customers shown in the first column, and similarly the last row of figures are arithmetical computations derived from the figures already described.

Hearing Examiner: Now, Mr. Gishman, is that the first sheet in this set of schedules?

The Witness: That is, sir.

Hearing Examiner: Let it be identified as Division's Exhibit 3-A.

(Division's Exhibit 3-A was marked for identification.)

By Mr. Nowlin:

Q. Now, Mr. Gishman, the second page of the statistical compilations is the same identical information for the year 1959, is that correct? A. That is correct.

Hearing Examiner: Let that be identified, the second sheet, as Division's Exhibit 3-B.

(Division's Exhibit 3-B was marked for identification.)

The Witness: There is one observation I would like to make with regard to the second sheet, and that is the source of material which is not the same as on the first sheet. All of our material, all of our basic figures shown on this second [1884] sheet were obtained from the annual returns to the Massachusetts DPU for the year 1959.

Q. Now, turning to the third sheet, which is entitled "Eight NEES Gas companies Statement of Total Gas Sales and Revenues for the Year 1958." Would you explain what this compilation reflects? A. This compilation for the year 1958, as well as the next one for the year 1959, gives the same type of information as is shown on Division's Exhibits 3-A and 3-B for identification, except that they deal with total gas sales for those two years instead of merely domestic gas sales.

Mr. Nowlin: Mr. Examiner, I would like to offer these.

Hearing Examiner: Let the third sheet in this series be identified in this record as Division's Exhibit 3-C and the fourth sheet is Division's Exhibit 3-D.

(Division's Exhibits 3-C and 3-D were marked for identification.)

Mr. Nowlin: I would like to offer these four sheets of

statistical information, marked as Division's Exhibits 3-A, 3-B, 3-C and 3-D, into evidence.

Mr. Vorenberg: We have no objection to this material. We would, of course, reserve the right to check it as to accuracy and the right of cross examination with respect to it at such time as we may have an opportunity to review it. [1885] Hearing Examiner: Very well, subject to the right of check and cross examination, these four sheets are admitted into evidence. I am referring now to Division's Exhibits 3-A, 3-B, 3-C and 3-D.

(Division's Exhibits 3-A, 3-B, 3-C and 3-D were received in evidence.)

By Mr. Nowlin:

Q. Mr. Gishman, do you also have before you a set of statistical compilations consisting of four sheets, the first of which is entitled "Nine Natural Gas Companies in Massachusetts (Included in Respondent's Exhibit 90) Footnote: 1. Statement of total domestic gas sales and revenues for the year 1958"? A. Yes, I do.

Q. Would you describe what this compilation shows and the source of the material? A. Yes. This compilation shows for each of nine independent Massachusetts gas companies included in Respondent's Exhibit No. 90 the total number of customers for the year ended December 31, 1958. Those figures appear in the first column. I will explain the eliminations in a few minutes. Under total gas sales we show the MCF, total MCF gas sales by each one of these gas companies, and the third column, that is Column C, as is shown here is simply Column B divided by Column A.

Under total revenue from the sales of gas in Column D we showed a dollar amount. In Column E we show the amount per [1886] customer, which is derived by dividing Column D by Column A, and in the last column we show the revenue per MCF, which is derived by dividing Column D by Column B.

Q. Mr. Gishman, before you start on this, I am going to ask do you have a second sheet there that reflects the same information for the year 1959? A. I do.

Q. Now, are the explanatory statements which you are about to give applicable to both of these two statistical tables? A. They are, yes.

Q. Will you proceed? A. Now, as is shown on the bottom of the first sheet that I have been testifying about, we have eliminated from those companies shown in Respondent's Exhibit No. 90 Boston Gas Company and Buzzards Bay Gas Company, for the following reasons: Boston Gas did not convert to straight natural gas until 1960, and therefore we felt it was not on a comparable basis as are the gas companies that were included in that nine companies group.

Q. Pardon me, Mr. Gishman. I think you included Buzzards Bay with Boston Gas, is that right? Buzzards Bay is reflected in the compilation. A. Both Boston Gas and Buzzards Bay are reflected in the compilation of the nine companies, and from those nine company [1887] totals we eliminated, as is shown here, Boston Gas and Buzzards Bay. Now, I have explained the reason why we eliminated Boston Gas.

The reason why Buzzards Bay was eliminated is that its per customer figures are not comparable with these other per customer figures because of the abnormally small number of customers reported at the end of the year by Buzzards Bay in relation to the number of customers served during the year. This appears to have been due to the seasonal nature of the Buzzards Bay business, in which, as I recall the individual figures, Buzzards Bay would show around the middle of the year a considerably higher number of customers served in the middle of the year than they reported as of December 31, 1958, and we felt that that destroyed the comparability.

Now, those are the reasons why we eliminated Boston Gas and Buzzards Bay, and we bring our totals down now to a seven company basis.

Now, there were three other companies included in Respondent's Exhibit 90, which were excluded from this compilation. These exclusions were Cambridge Gas, New Bedford Gas, and Fitchburg Gas, and the reason they were excluded from this compilation was because all three of them have joint operations with affiliated electric companies, and we wanted to make this independent company comparison as nearly as possible straight gas operations for purposes of comparison.

[1888] Q. Now, do you also have before you two other statistical compilations, the first of which is entitled "Nine Natural Gas Companies of Massachusetts (Included in Respondent's Exhibit 90) Footnote: 1. Statement of Total Sales and Revenues for the Year 1958," and a second sheet showing the same information for the year 1959?

A. You slightly misstated in your description of the title. This is a statement of total domestic gas sales and revenues.

Q. You have identified those. It is the next two sheets.

Hearing Examiner: The third and fourth sheets.

By Mr. Nowlin:

Q. The third and fourth sheets. A. The two sheets from which I have just testified refer to total sales and revenues for the years 1958 and 1959 of those nine companies. I have already finished testifying on total gas sales.

Q. We have got them reversed here. Will you proceed to describe the other two compilations that you have?

A. These next two sheets are the same sort of compilations as shown on the first two, except that the figures shown in these two sheets are confined to domestic gas sales and revenues as distinguished from total gas sales

and revenues testified to on the first two sheets. The source of the data and the reasons for the eliminations are the same as I have just indicated with respect to the first two sheets.

[1889] Mr. Nowlin: Off the record.

(Discussion off the record)

By Mr. Nowlin:

Q. Now, the next two pages "The Nine Gas Companies Total Domestic Sales," the first one is 4-C and 1959 is 4-D? A. Yes.

Mr. Nowlin: Mr. Examiner, I would like to offer into evidence as Division's Exhibits 4-A, B, C and D the four statistical compilations which Mr. Gishman has just described.

Hearing Examiner: Let those four sheets come in under the exhibit numbers which the witness identified; that is, Division's Exhibits 4-A, 4-B, 4-C and 4-D.

(Division's Exhibits 4-A, 4-B, 4-C and 4-D were received in evidence.)

Mr. Vorenberg: We have no objection to these exhibits subject to what I said about 3-A, 3-B, 3-C and 3-D.

Hearing Examiner: Yes. These are received subject to the right of correction and possible cross examination if you desire.

Whereupon,

ROBERT ROSS CABAL, JR.

resumed the stand and testified further as follows:

Cross Examination (Continued)

By Mr. Nowlin:

XQ. Turning your attention to the sale of gas appliances [1890] by the NEES gas companies, are there any instances in which gas and electric appliances are jointly displayed or sold in the same space? A. There are instances where

electric and gas appliances are sold in the same building. There are twenty-six places where these appliances are sold by the NEES gas companies, and of these in 17 they are sold in stores where there are also—in buildings where there are also electric appliances sold. However, in these buildings these appliances are separate. They are not intermingled. This division depends upon the layout.

XQ. In other words, there are no places where on one single shelf, for example, the appliances are displayed together? A. No.

XQ. And there is no single area where they are both displayed—I mean by that, some particular area where they are both displayed and sold? A. That is correct.

XQ. In general, where they are displayed on one floor there is a separation between the sales and display areas? A. That is right.

XQ. Are there any instances in the NEES System where company salesmen promote and sell both electric and gas appliances? A. Well, referring to the status as it existed in this [1891] period, at that time in Lynn Gas and Electric Company, there were combination salesmen because that was a combination company, but otherwise in the other companies there was no joint selling of appliances.

XQ. Are there any part-time salesmen engaged in the sale of electric and gas appliances? A. Part-time. You mean part-time between electric and part-time between gas?

XQ. No. Really what I meant was, you have your full-time salesmen. Do you have any salesmen coming in maybe on the weekends and devote only a part of their time to sales? A. Not salesmen.

XQ. In joint sales locations who selects the particular space assigned to the gas and to the electric? A. I don't know who made the final determination as to which side or which area would be electric or gas.

XQ. Do you know what factors are taken into account in

assigning such space? A. Well, the major factor is to try as nearly as possible to give each area equal space considerations in terms of size, for example, and in terms of location. By that I mean not to put the gas or the electric out of the way, so that the normal flow of traffic will not reach that area.

XQ. In other words, you find no instances of where the electric was stretched across the front part of the building and [1892] the gas in the back part of the building? A. No, I don't recall any instances of that.

XQ. Well, insofar as your appraisal is concerned, did you find any indication of discrimination as between the gas and electric insofar as the display of the facilities was concerned? A. No discrimination. I think that both sides were trying their best to be in a good position, and consequently they were highly competitive in this, but it was not a matter of discrimination.

XQ. Do you know of any instances or did you run across any instances of where a gas salesman may route customers to an electric salesman because of the difference in commissions that were being obtained? A. I am certain that wouldn't happen. This commission is this salesman's bread and butter, and he is certainly going to protect his own interest in getting whatever commission he can get.

XQ. Did you make any personal review or observation of the sales activities or conduct of any particular salesman toward a prospective appliance customer? A. Do you mean by that, did I participate in a sales situation where a salesman was actually selling the customer?

XQ. No. Let me give you this example: Suppose I enter one of the sales floors where gas and electric appliances are both displayed, I assume there is a center aisle that separates [1893] the two displays. How is a prospective customer assigned to the electric or to the gas? In other words, who makes the assignment? Who determines which

he should see first? A. Well, I would say that probably in most cases that the customer makes the assignment. The customer goes to the kind of appliance that she is particularly interested in at the time. As far as assigning them is concerned, there is no one person that has this as their job function to steer the customer one way or the other.

XQ. In other words, you observed no instances in which there was a hostess or a so-called floor walker that would meet people at the door and route them to one department or the other? A. No, except that if there was a salesman on the floor I am sure he would have been alert to try to attract the customer to his particular line of merchandise. However, he was certainly not assigning them. He was just doing a sales job the best he knew how.

XQ. Did you make any observation of the sales techniques of either the electric or gas appliance salesmen in the course of your study? A. I did not participate. This goes back to this other point. I did not participate in a selling situation where I could actually listen and hear the salesmen. By talking to salesmen I got the gist of their techniques and their methods.

[1894] XQ. Well, how could you formulate any opinion as to whether or not the gas and electric were aggressively promoting their sale of appliances without making some observations of their activities? A. Well, there are several criteria that one can use in this to evaluate it that I use. One of them is the kind of appliances that they were promoting. For example, the gas company promoted every gas use it could find that is generally available on the market. The electric companies were also promoting all electrical uses even though several of these are in direct competition with one another. Another criteria is the nature of incentive. In other words, the fact that these salesmen, the domestic appliance salesmen, derive a good portion

of their annual earnings from incentives rather than from a base salary is an indication that the company was interested in them gaining substantial sales volume.

Another criterion is the amount and type of what we might call mass promotion or advertising. The fact that these gas companies did advertise where feasible, did advertise very pointedly the benefits of gas—and this is another evidence to me that they were anxious to get the business and were aggressive about it. The whole merchandising program because of the use of incentives not only to the salesmen but also certain allowances to customers for putting in certain gas appliances is by its very nature a very aggressive operation.

[1895] These salesmen in connection with the store, we should recognize that these salesmen by and large are not store salesmen. They use this store as a place to bring customers and to demonstrate appliances. They also are given a certain—in some cases—given a certain turn on the floor just to even out the opportunity, but these salesmen spend a great share of their time out in the field calling on customers and to sell these appliances and other utilization equipment.

[1896] XQ. Did you make any study of the volume of sales of appliances by the Electric Department and by the Gas Department, for example, whether they had it in one combined company, on one floor, to determine which one was accomplishing the greater volume of sales? A. I did not because the electric company is in position of having a better opportunity to sell appliances through independent appliance dealers. Therefore, they, in their merchandising operations, are just as interested in creating appliance sales through dealers as in the direct merchandising of appliances. This is not an opportunity that is equally available to gas and therefore the gas company is more interested in developing its merchandising volume.

XQ. Did you make a comparison of the income or the volume of sales, rather, of any particular electric appliance salesman with the volume of sales by any gas appliance salesman? A. Yes. I reviewed the sales accomplishments of various salesmen in terms of their production of sales over a period of time.

XQ. Did you find any indication of a greater success on the part of electric salesmen than gas salesmen or vice versa? A. Not generally. When you get a group of salesmen, you are getting a wide range of productivity and it is awfully [1897] difficult to compare one salesman against another because this is individual productivity more than it is circumstances of his job. But there is no major difference. Both types of salesmen are on some form of commission basis and therefore they are interested in producing a volume which will give them something above their base salary.

XQ. Do you know which one of the gas companies has the largest total volume of gas appliance sales? A. I believe it is Mystic Valley, because it is the largest company.

XQ. I guess I should have added to that, on a per customer basis. A. The appliance sales volume per customer, the largest one is Norwood.

XQ. Well, now, Norwood doesn't have a joint arrangement for the display and sale of electric and gas appliances, does it? A. That is correct.

XQ. Now, does Mystic Valley have a joint arrangement for the sale of electric and gas appliances? A. Yes, they have both.

XQ. Is that on the same floor? A. Yes. In six of their offices it is on the same floor and five it is a straight gas floor.

XQ. Which company has the lowest sales per customer? [1898] A. Lynn Gas Company.

XQ. Do you mean the Lynn Gas Department or the Lynn

Gas & Electric Company? A. This is the gas appliance sales for the Lynn Gas and Electric Company.

XQ. That was the lowest of the eight gas companies? A. That is right.

XQ. Are all of the sales of Lynn made on a joint display and promotion basis with electric? A. They were perhaps a little less distinct in the sales area, but generally speaking they were separate.

XQ. Does the Gas Department of Lynn have a separate gas appliance display anyplace in its territory? A. Yes.

XQ. At how many places, do you know? A. Well, they have the two stores. One of them is in the main office building, which is a combination, joint, and the other one is not. I mean the one other location is a gas store.

XQ. Straight gas appliance store? A. Yes.

XQ. Do you know whether the bulk of the sales take place in Lynn, whether it is on the combination display store or the separate gas sales floor? A. I don't know the figures, but the store in the Lynn [1899] main headquarters is much bigger and in a bigger center of population. I would assume that most of the sales take place there. But again we must realize that these stores, actually most of the sales or a greater per cent of the sales are occurring out in the customer's premises. This is door to door selling and whether it is shipped out of this particular store room or not is significant as to what kind of selling takes place. The incident of selling on the floor occurs, but it is the bulk of the salesmen that are out in the field and are producing out there.

May I qualify this by saying there are degrees of competitiveness, but the principal competitors are the gas and electric range, the gas and electric water heater, the gas and electric clothes dryer, the gas and electric incinerator, the gas and electric refrigerator, the gas and electric air conditioner, and the gas and electric house heating system.

XQ. Well, has the development in the NEES system with respect to household heating by electricity reached the point that it is competitive with the house heating by gas? A. Competitive in what terms?

XQ. Either cost, annual cost or initial cost. A. From a cost standpoint, it is difficult to pin this down because of various ways of looking at the cost, but from a cost standpoint electricity is not directly [1900] competitive with gas. It is low enough to be in a direct competitive area for those people who want it. From a marketing standpoint, the NEES electric house heating promotion, I think, would have to be classified as still in the pioneering development stage. In other words, the number of gas heating to electric heating is overwhelming, but they are promoting it and apparently in time this will become more competitive.

XQ. Mr. Cabal, do you know whether or not the NEES system has put in promotional electric rates for house heating? A. Yes, sir, they have.

XQ. Do you know when that promotional rate was put into effect? A. About a year ago.

XQ. Has there been any change in that promotion rate; that is, decrease or increase, since it was originally put into play? A. I don't believe so.

XQ. Do you know what success they are having in the field of promoting house heating by this new electric development rate? A. One indication of their success is that they are over quota, their estimate of how many house heating installations they would install up to about this point. They are having better success than they had estimated or hoped [1901] for.

XQ. When you were talking about installation awhile ago, I assumed that you meant the installation of electric heating for the entire house rather than portions. A. Yes.

XQ. In other words, that would be the installations, as I understand it, of baseboard house heating for the entire

house; is that correct? A. That is right. As a matter of fact, I think the rate provides that electric is the only source of heat in the house.

XQ. Well, now, for the past several years have the electric companies been selling electrical heating appliances that could be plugged in and heat individual rooms or areas of the house or building? A. You mean the NEES Electric companies?

XQ. Yes. A. Yes, they have sold what might be called a portable electric heater.

XQ. I think those are sometimes referred to as space heaters. A. They may be. This terminology in heating gets awfully mixed up, I mean from one area to another. I guess you could call it a space heater.

XQ. Now, with respect to the installation of this new [1902] house heating by electricity, do you know how the new installations of the strict territories served only by electricity compare with the installations installed in areas served by gas and electric? A. No, I don't. I don't know the specific figures on that.

XQ. Now, at pages 47 to 48 you stated you did not observe any difference in the promotion of gas sales in areas where the NEES Gas Company was competing with an electric company as compared to areas where NEES did not serve electricity. What was the basis of your determination? A. The basis of my determination on the sales progress of the NEES gas companies was more or less uniform. In terms of, let's call it, customer coverage, the assignment of personnel to territories, the use of advertising media, the allowances and incentives that were offered to customers or builders for certain types of installations and these were uniformly available and the coverage was basically the same in every territory. The salesman in a combination area was after his commission just as much as the salesman in a straight gas area.

XQ. Assuming the promotional efforts to be the same, did you find that the results achieved were the same? A. Well, within the framework of the opportunities to sell equipment, the market potential, if you will, I would [1903] say there is no significant difference.

XQ. Isn't it a fact that Norwood had a better per customer domestic sales result than any other seven associated gas companies? A. Norwood did because Norwood was fortunate in two respects, particularly as I pointed out in these population figures. Norwood has had a very nice growth populationwise, new houses. Norwood is also in a good competitive position because the competing electric operation there is a municipal, which is not as aggressive as the other gas companies face from NEES and other electric companies in their areas.

XQ. Does the Municipal Electric Company engage in the sale of electrical appliances? A. I don't know whether they engage in the direct sale of electrical appliances or not. Their promotional effort is limited.

XQ. At page 1254 of the transcript it is indicated that the percent of saturation for house heating for NEES gas companies was 20 per cent. I don't recall if that was your testimony or someone else's. A. Yes, that was 1254.

XQ. Does that sound familiar to you? A. Yes, sir.

XQ. How does this compare with the percent of saturation of house heating for the independent gas companies [1904] reflected on Respondent's Exhibit No. 90? A. Well, in order to evaluate the comparison here, we have to have a definition of house heating. I mentioned awhile ago that the terminology in house heating is quite irregular. The NEES gas companies consider only house heating customers those that heat their house with gas. Some companies include in their house heating figures any customer that uses gas for heating, whether or not this is their only source of heating or not. Consequently when you examine

other saturation figures as reported by these other companies, it is difficult to get a common basis of comparison. I would say generally that, according to reports, that the NEES companies have some areas where the house heating saturation figure is higher than average and they have some areas where it is lower than average.

XQ. Do you know what the percent of saturation is for each of the eight NEES gas companies? A. Yes.

XQ. Would you supply that for the record? A. Central Massachusetts has a 30 per cent saturation. Lawrence has a 34 per cent saturation. Lynn has a 16 per cent saturation. Mystic Valley has a 15 per cent saturation. Northampton has a 23 per cent saturation. North Shore, 15; Norwood, 26, Wachusett, 17.

XQ. How did these compare with the per cent of saturation [1905] of the independent gas companies of Massachusetts reflected on Respondent's Exhibit 90? A. As I indicated, there are some that are higher and some that are lower and actually because of this inclusion of such things as kitchen heaters in the saturation figures, these companies don't break it down so that, let's say, that in comparative figures NEES may be penalized because NEES has a fairly specific limitation on what they consider to be a house heating customer.

XQ. Don't any of the independent gas companies report their house heating figures on the same basis as the NEES companies? A. Well, I presume they do. I did not make an analysis of their reporting. I had figures available to me. In some cases it specifically points out that these figures include these kitchen heaters. In others there is no indication. It perhaps would be a little bit presumptuous to assume what these other companies are reporting, although their figures look comparable to NEES on this unspecified basis.

XQ. Will you have available the percent of saturation of the independent gas companies reflected on Respondent's Exhibit No. 90? A. I have some of them.

XQ. Would you mind reading what you have into the record? A. All right. I have two sources. Therefore these [1906] figures are more or less a composite of these, but, for example, for Berkshire I have a figure of 22 per cent; for Boston, 8; for Brockton-Taunton, 21; for Cambridge—well, the two figures I have are so far apart, one is 40 and one 19. This is illustrative of the problem you encounter when you try to pin these figures down. Springfield, 23 per cent and Worcester, again 40 per cent on one basis and 19 per cent on another basis.

Mr. Vorenberg: Are those for the year 1958?

The Witness: Yes.

By Mr. Nowlin:

XQ. Don't all of these gas companies in Massachusetts have to make a report to the State Public Utility Department up there? A. I don't know. I would imagine if they had a special house heating rate probably they would have to report the number of customers on that particular rate, but I don't know what the requirements are as to what they report.

XQ. Upon the basis of the annual returns filed with the Massachusetts Department of Public Utilities, we have noticed that Norwood's net revenue in 1958 from merchandising and jobbing amounts to \$104,980. This computes out at \$23.38 per customer. The same computation is made by the staff for other NEES gas companies and shows that this per customer figure for Norwood is by far the largest of the eight companies. In [1907] this connection, our computation shows the following: Central Massachusetts, \$14.86; Lawrence, \$16.08; Lynn Gas Department, \$10.20; Mystic, \$15.57; Northampton, \$14.46; North Shore, \$13.30; Wauchessetts, \$16.01.

Mr. Vorenberg: Mr. Hearing Examiner, Mr. Nowlin testifying to this on the basis of his own examination?

Mr. Nowlin: I am laying the groundwork for a question.

Mr. Vorenberg: As I understand it, is this from something that is already in the record now?

Mr. Nowlin: I am giving you the source of it. It came from the reports you made to the Department of Public Utilities of the State of Massachusetts.

Mr. Vorenberg: Sitting here at the conference table, we have no way of checking that. I am not clear of our Honor, with what status this is going into the record.

Mr. Nowlin: I will ask the question subject to check. The staff took it off the reports when they were up in Boston. I assume the reports are accurate and if they made an error in taking them off the report, you can let me know.

Hearing Examiner: On check, you can go to strike it.

Mr. Vorenberg: Also to cross examine on the basis of it as it relates to relevancy, Your Honor. This is as [1908] important as anything else. To whom shall we address questions in that respect, Mr. Nowlin or Mr. Fishman?

Mr. Nowlin: I can do it the other way. I ask you to supply the information from the reports, if you prefer that.

Hearing Examiner: Well, how much longer are you going to go?

Mr. Nowlin: I have one or two more questions.

Mr. Vorenberg: We are going to accept it on that basis.

Hearing Examiner: That I suggested a moment ago?

Mr. Vorenberg: Yes. I suppose that to the extent we have questions as to its relevancy, we can use them with

Mr. Gishman in connection with the other cross examination. We are merely willing to accept it on that basis.

Hearing Examiner: Very well. Proceed now.

Mr. Nowlin: Maybe the thing for me to do is ask the witness for the figures then. I was trying to expedite the thing by supplying them. In other words, this is an average of \$14.49 for these gas companies. How do you explain the fact that Norwood, whose service area is non-competitive with any affiliated electric company, is doing the best relative job in the merchandising of appliances in the NEES system?

The Witness: I think that the answer that I gave awhile ago to the Norwood situation is equally applicable here, [1909] that you have a nice compact sales area that has been growing very well. You have got new houses being built there in good proportion to the existing houses. You have got a lack of any kind of competition, and the factor that we cannot measure into this is the fact that I would imagine that the Norwood operation being in the type of town it is may have a better opportunity to supply a major share of the appliances, gas appliances sold in that area. There are dealers selling appliances too, and they are getting a certain share of the market which is good.

By Mr. Nowlin:

XQ. Do you know whether or not the cost of gas to Norwood is any greater than it is to the other eight gas companies? A. No, I don't know anything about the cost of gas.

XQ. Do you know whether or not, Mr. Cabal, any of the other NEES companies operate in territories which are served with electric by municipal systems? A. There are, I believe, some municipal operations in areas, but these are only a small part of the total service area of the company and it doesn't have this total effect that you get in Norwood.

XQ. Which of the other eight NEES companies can you name that are served or that serve gas in areas that are supplied with electric by municipal systems? A. I believe that there are some municipal operations [1910] in the Lynn area and in the North Shore area, but I am not positive.

XQ. Mr. Cabal, the information that we have here indicates that Peabody is served with gas by North Shore and it is served with electric by a municipally owned system. Do you recall that? Is that correct? A. I believe that is the case, yes.

XQ. Assuming that to be so, do you know what the appliance sales record of North Shore and Peabody is? A. Peabody in comparison with the rest of North Shore?

XQ. No, just what is its sales record in Peabody alone? A. No, sir, I don't.

XQ. Do you know how the gas appliance sales in Peabody would compare with those in Norwood on a per customer basis? A. No, sir, I don't.

XQ. Could you obtain and supply for the record the amount of dollar sales for merchandising in Peabody by North Shore?

Mr. Vorenberg: I would say with respect to this request that was made with respect to another request for additional information. If Mr. Nowlin wants to raise that question with us, we will see if it is even available. It may not be possible to ascertain it, but we do not believe it is orderly to present that type of a request to one of the Ebasco witnesses.

Mr. Nowlin: I take exception. This man is testifying [1911] on the merchandising sales in the area and he is supposed to have acquainted himself with these facts. He is the man I am addressing my questions to and if co-counsel wants to supply the information, that is well and good, but

I don't like the inference that this isn't an orderly examination.

Hearing Examiner: Well, without getting into a hassel over whether it is appropriate and proper or not, we will see what the company supplies. Does that satisfy you?

Mr. Nowlin: As long as we get the information.

Hearing Examiner: Are you through?

Mr. Nowlin: That is all we have for the present, Mr. Examiner.

Hearing Examiner: The witness may retire from the stand and we will recess at this point until 9:30 tomorrow morning.

(Whereupon, at 4:55 o'clock p.m., the hearing recessed, to reconvene at 9:30 o'clock a.m., Friday, April 7, 1961.)

PROCEEDINGS

[1913] Hearing Examiner: Let us come to order.

Mr. Vorenberg: Mr. Hearing Examiner, at the very end of yesterday's session Mr. Nowlin asked if we could make available the appliance sales figures for the town of Peabody, which is a part of North Shore gas service area. Now I have talked to the representatives of the gas division and they have informed me that the appliance sales figures are not broken down by a town basis. I told Mr. Nowlin and he and I agreed that I should just state for the record that that figure is not available.

Hearing Examiner: Thank you, sir.

Mr. Nowlin: I would like to call Mr. Simes.

Hearing Examiner: He has been sworn.

JAMES F. SIMES

was recalled as a witness and, having been previously duly sworn, was examined and testified as follows:

Hearing Examiner: Your name, please, sir.

The Witness: James F. Simes—S-i-m-e-s.
Hearing Examiner: Thank you, sir.

Cross Examination

By Mr. Nowlin:

XQ. Mr. Simes, would you briefly state the scope of your activities in connection with the Ebasco study? A. Very well sir. I was responsible for the study of the [1914] service company, the general areas of what we call the operating departments, distribution, utilization and so on, the space requirements, in the event of severance, professional services, the general area of transportation costs and several miscellaneous items.

I am sorry, I forgot one very important area, the executive and administrative staff.

XQ. Did you participate in the initial conferences between the Ebasco officials and NEES officials regarding the selection of Ebasco to make the study? A. No, sir, I did not.

XQ. What instructions were given to you as a guide for the making of your phase of the study? A. Well, when Mr. Quig first assigned me to this job my instructions, in general, were to—well, let me say specifically the first assignment was the study of the service company and then in general to review the work that had been done by the Ebasco team in other areas that I mentioned.

XQ. Were you instructed to make an independent evaluation of the NEES system as it existed at that time to determine what economies or curtailments would be effected or should be effected; that is, prior to undertaking your actual study? A. No, sir. If that had been done, it had already been done by the time I came on the scene in most of the areas for which I was responsible.

[1915] XQ. In other words, as a preliminary to undertaking your study you didn't make any independent evaluation

of the conditions as they existed to determine whether or not there should be any curtailments or supplements? A. Well, that is a little—Let me try to bring it into focus. In going around to all of the properties, specifically the gas properties, of the New England Electric System, I had to, by the very nature of my background and experience, formulate the opinions as to how they were operated, whether they were being operated efficiently or not.

XQ. Take, for example, the executive and administrative departments. Did you make any specific study of the present executive and administrative staff to determine whether or not they were properly set up or whether they needed more personnel or less personnel as a preliminary to undertaking your actual studies? A. Yes, to the extent of my detailed studies of the service company, which, of course, at that time involved various officials of the service company in NEES and my examination of the Gas Division. This was the executive group of the gas companies.

XQ. I don't know whether I am getting myself over to you. What I am trying to ascertain, Mr. Simes, is before you actually sat down and made your study for Ebasco purposes, did you make any studies of any of the departments of [1916] the NEES system to determine whether they were inefficiently or efficiently being operated or whether they needed supplements in the staff or in different facilities? A. Well, you start at the beginning in any study, Mr. Nowlin. You have to first determine what is there. That is your starting point before you go to making the specific study that I was sent up there for. That I think is rather obvious. You can't do it any other way, except to study what is there.

XQ. That ties in with your actual study for Ebasco? A. Yes, sir.

XQ. I am trying to ascertain if you made any preliminary independent studies of the existing situation to determine

whether or not it was properly set up before you undertook to make the Ebasco study. A. I don't quite follow you.

Hearing Examiner: Are you asking him if he had been in on this system before Ebasco came into the picture? Is that what you are asking?

Mr. Nowlin: No, sir, Mr. Examiner. It seems to me very clear that there are two facets of this study or should have been two facets. One of them is to make an actual study and not just a general review and a visit to the properties, but to make an actual study of the present personnel and operations and so forth to determine whether [1917] or not they are efficiently operated before you accept actual figures as a basis for making a subsequent performance study.

The Witness: Well, I thought I had answered that.

Hearing Examiner: Well, did you do that?

The Witness: We will take it over again, just in case there was a misunderstanding.

Hearing Examiner: All right.

The Witness: Here is a very good example: In the case of the production and distribution and utilization groups, what we call the operating departments, there I actually went out into the field, went through every one of the plants, discussed right down the line to the foreman the work that was being done by distribution crews, how they were manning these crews, so far as the utilization work which was concerned, which in my upbringing we have always called primarily customer servicemen, what kind of work they do, what sort of servicing they do. As I say, maybe I went over it too fast, but this is a natural thing. You have to do this to get started: what are they doing now and are they manned properly and so on, yes.

Mr. Nowlin: I am still trying to break this down into two categories. It seems to me like before you are going to make a study of what the requirements of this system

should be, you first ought to determine whether or not it is properly operated today.

[1918] The Witness: Yes.

By Mr. Nowlin:

XQ. And it seems to me like that would necessarily require a preliminary survey and an actual study of certain areas in order to reach a determination. A. Well, did my last answer—

XQ. Having reached that determination, I would assume you would start from there and begin to make your performance study. I am trying to ascertain whether or not you did make this actual study independent of anybody else to see how this system was being operated and whether there should be any adjustments made before you undertook your actual study for Ebasco. Did you make such an independent study on your own behalf?

Mr. Vorenberg: Mr. Nowlin, you twice now said "before you understood this study for Ebasco." You understand that anything this witness did he did for Ebasco. He was working for Ebasco.

Mr. Nowlin: Certainly, but I assume he would fortify himself—

Hearing Examiner: Why not ask the witness what he did first when he went to work on this report of Ebasco.

Mr. Nowlin: Mr. Examiner, that is pretty well scattered over the direct testimony. I don't see how there could possibly be any confusion about the question I am asking. [1919] I have tried to explain exactly what I am getting at and I don't know why it should be misunderstood.

Mr. Vorenberg: If I may suggest what seems to be the confusion, Mr. Nowlin, is that you seem to be trying to force the roll of Mr. Simes into a specific framework of first a preliminary study and then a subsequent study.

Hearing Examiner: Well, let me ask this question and then you gentlemen pick it up there: After you were as-

signed to take part in this work of evaluation of Ebasco, what did you do first?

The Witness: My very first thing, sir, was to try to absorb what we call or what I call a feel for the property. I went around to every—before I put a pencil on paper, I went around to every single property of the gas company, their production plants, discussed with their production superintendents, talked to them, saw what kind of equipment they had. In other words, this was a field survey. This was the first step.

Does that answer the question?

Mr. Nowlin: No, not at all. Let me try again.

By Mr. Nowlin:

XQ. Let's take the executive and administrative staff. Let's assume, for example, that they had three presidents and you only needed one. Did you, before you started making a study, determine whether they needed three presidents or one [1920] president or four assistant treasurers instead of one assistant treasurer to see whether the system was properly set up before you started making your study?

A. Again I think I answered that before. I will try once more.

XQ. I am not talking in connection with your Ebasco study. Did you go out and just evaluate this system on your own? A. This confuses me.

Mr. Vorenberg: What do you mean by the Ebasco study?

Mr. Nowlin: That is 58-A and B.

The Witness: The report?

Mr. Nowlin: It is called the "Gas Severance Study." I don't know why the word "study" should be confusing when you used it yourself in this report.

Mr. Vorenberg: It is not the report itself; it is the Ebasco study. I am sure you understand Mr. Simes and the other Ebasco people were employed by NEES to do a single overall job and your repeated reference to what they did

before they started the Ebasco study is certainly confusing to me and I don't see how it can help but be confusing to the witness.

Mr. Nowlin: I don't know how it can possibly be confusing in the questions and examples I have given. It seems to me before anybody could come up with any kind of an estimate, [1921] he either accepts the actual figures and the actual personnel that exists, which the records indicate that they had here, or—

Mr. Vorenberg: This witness has testified—

Mr. Nowlin: Let me finish. The records indicate that Ebasco accepted the actual figures or the actual cost, the actual personnel, that they didn't make a single adjustment in the existing situation.

Now wait a minute. When they proceed to make their performance study, they use the actual figures and the increased costs that are reflected in this Ebasco report as against the actual figures and I am trying to ascertain whether or not he checked those actual figures to determine whether or not there are any understaffing or overstaffing or excess in costs.

Hearing Examiner: You didn't ask him that question. Why not ask him that question. Ask if he checked those figures.

Mr. Nowlin: I asked that three times.

Hearing Examiner: Well, it has been in language that I didn't catch.

Mr. Nowlin: Is it clear to you now, Mr. Simes, what I am trying to ascertain?

The Witness: Yes, sir, and I think in general I have been answering that question. Again, as I stated before, I did, so far as the report is concerned, I examined the existing situation in the areas for which I was responsible and [1922] I will state that so far as the manning is con-

cerned, I believe that it was adequate to do the job for which the staff was manned.

By Mr. Nowlin:

XQ. Did you actually make any specific study to determine that? A. Well, when you say a specific study, again all I can say is that in going through the gas division, individual by individual, with the people themselves, that to my mind is an analysis of the staffing.

XQ. When did you decide for yourself that the actual operations of the system needed no adjustment, that everything was hunky-dory—in the course of your Ebasco study or before you undertook your Ebasco study? A. Well, the Ebasco study was in progress from the beginning. This is a continuing thing. This is a continuing evaluation. This is a continuing gathering of data and applying judgments. There is no point in time, Mr. Nowlin, except our deadline.

XQ. Do you know of any instances where you found that the NEES system was understaffed or overstaffed? A. In my knowledge of a gas operating company and my experience, I would say that this is a well operated company. Now there are going to be variances from company to company, but for the functions that had to be performed, this was [1923] staffed adequately and properly.

XQ. And is it a fact that you accepted the actual personnel and the cost figures for 1958 as the basis for projecting your report? A. No, no.

XQ. Did you make any adjustments? A. In the projecting of the report, we set out to staff and man an organization either on the independent basis or on the combined basis, but we set out to man a gas company that had to perform certain known functions. We know the things that a gas company has to do.

XQ. And as a basis for those projections, you obtained the actual data, actual operating expenses and personnel and so forth from the NEES officials? A. Not as a basis,

no, sir. As I said before, you always start out from the actual system in any job that you do. You start out from what is it today and where are we going from here in a projection.

XQ. If this was an independent study, then, Mr. Simes, why did you ask for any data from the NEEs officials?

A. Mr. Nowlin, in any job that you do you have got to get the information.

XQ. Did you make your field trip and study it and so forth and familiarize yourself with the system? Can't you, as a bunch of experts, sit down and project the pro forma staff [1924] and cost for the NEEs gas companies? A. We did this on the pro forma.

XQ. Why did you ask for all of this material and gather all this material and talk to all of the NEEs officials.

A. Why? What is your basis for comparison if you don't get the actual figures? I am sorry, I didn't mean to ask you, but you need to state it affirmatively. You need a beginning point to make a comparison.

XQ. Couldn't you go out here and make a study of a given utility company to determine how it should be staffed and what the cost would be and so forth without having a single paper submitted to you by the utility company?

A. No, sir.

XQ. You couldn't make an independent set up yourself?

A. No, sir.

XQ. Now, let me ask you one other question along this line: Were you instructed to make any study or evaluation to determine the advantages and benefits that might accrue to the gas company as a group in the event of severance?

A. A study of it—May I have that question?

(Question read by reporter.)

The Witness: Mr. Nowlin, the instructions, as I understood them, were to establish a pro forma organization,—

Hearing Examiner: Whose instructions were they, Ebaseco or NEES.

[1925] The Witness: My instructions from Mr. Quig. He was the general supervisor.

Hearing Examiner: Very well.

The Witness: (continuing)—to set up—let's take first the independent situation—to set up a gas company to operate adequately, sufficiently and provide good service to customers. Now, whether or not there would be advantages or disadvantages stems from the organization that you set up. You don't go to see this or to see that; you set up an organization to perform the functions of a gas operating company.

By Mr. Nowlin:

XQ. Do you know whether or not in previous severances of gas and electric, under the Holding Company Act, that there have been benefits derived by the severed gas companies? Are you familiar with any of those things? A. No, sir, I am not.

XQ. You don't know whether or not there have been previous cases of severance, whether or not the gas company has actually benefitted from the severance, rather than having suffered losses? A. I say, again, in my general knowledge of the gas industry and various companies, I can't specify but I would say that there would be both advantages and disadvantages.

XQ. But you did not make any study in this case? A. As I explained before, you set up an organization [1926] to perform the job of operating a gas property.

XQ. Now, I am going back and ask you again did you make any study, assuming the severance was made, did you make any study or give any consideration to the fact that the severed gas companies might obtain advantages from being severed from the NEES system, as well as may be suffered some losses, which advantages are not reflected

in the estimated loss papers? A. I am afraid I am going to be repeating myself. All I can say is—

Mr. Nowlin: Wait a minute, Mr. Simes. Mr. Examiner, I think this is a question susceptible to a yes or no answer.

Hearing Examiner: I think the witness ought to have some latitude. I don't see how he can answer that myself yes or no.

Mr. Nowlin: Read the question, please.

(Question read by reporter.)

Mr. Nowlin: It seems to me that is subject to saying yes, he made such a study or he didn't and then if he wants to explain it, OK.

Hearing Examiner: Well, now if the witness can answer this question categorically, he has a right to explain or offer any explanation he cares to.

Did you make—Mr. Nowlin has used the words “preliminary study”. By that I take it he means did you have any work papers going into these matters in the early stages, [1927] the first stages of the evaluation. Now, can you answer that yes or no?

Is that what you are inquiring about?

Mr. Nowlin: Mr. Examiner, I left that. The question I asked was did he in making his pro forma estimate for Ebaseco, did he make any study of the benefits that might accrue to the gas companies after severance and did he give any weight to those advantages in his projection of these estimated losses or economies.

Hearing Examiner: I think the witness ought to be allowed some latitude as to how he answers that question. I will permit you to answer it in your own way.

The Witness: Thank you, sir.

As I stated before, there are advantages and disadvantages to any situation such as this. Mr. Nowlin asked me the question did I examine specifically advantages. My answer to him was that we set up an organization to operate

a gas company. Now in setting up that organization, there are going to be certain advantages and there are going to be certain disadvantages. These all are enumerated in the Ebaseco report.

Mr. Nowlin: Mr. Examiner, the only thing that I have found in this report is purely an estimate of losses that would occur, loss of economies that would occur in the event that the gas companies were severed from the NEES [1928] system. Now the Commission, in several opinions, has pointed out in previous cases that once the gas companies have been severed from the system, there have been advantages from such severance, which offset in part the losses that might be occurred in the severance.

Hearing Examiner: Why not ask this witness if he found in the initial stages of the work advantages to be gained by severance and losses to be gained by severance. Is that what you are asking him? That is the way I assess the line of the examination.

By Mr. Nowlin:

XQ. Mr. Simes, do you know whether or not there are any advantages to the gas companies being severed from the NEES system? A. I can think of none specifically.

XQ. Well, then, your report could not possibly reflect any advantages that might be obtained by the gas companies from being severed?

Mr. Vorenberg: That is not what he said.

Mr. Nowlin: He said he didn't know of any. If he doesn't know of any, how could—

Mr. Vorenberg: You asked him whether in this particular case he found any of these advantages and he said he did not know of any in this case.

Mr. Nowlin: He understands the question. I suggest [1929] he answer it.

Hearing Examiner: Let me ask the witness this question: In his participation in this evaluation work under-

taken by Ebasco, did your investigation reveal any advantages from the severance?

The Witness: Sir, I would like to state it this way: I have been, over the years, familiar and acquainted with a lot of gas companies and I would want to state this, that to my knowledge this company as it exists today under, these gas companies as they exist today, under the New England Electric System, are well operated and are in all instances providing good service for their customers.

Hearing Examiner: Do I understand from what you have testified and what you have just said that you found no advantages in the work that you did on this evaluation study?

The Witness: Mr. Examiner,—

Hearing Examiner: It seems to me that can be answered yes or no and not going off and tell us what some other company and what your experience is; it is what you found in this instance.

The Witness: I would say that I found no particular or specific advantages to severance.

By Mr. Nowlin:

XQ. Did you make any study upon which to base that [1930] conclusion? A. Well, the entire establishment, again, of these separate companies and initially the understanding of how they operate today, this I think you are in the area of judgment, Mr. Nowlin, and of course you can form an opinion.

XQ. Did you make any study of this specific part? A. This was a continuing study.

XQ. Will you turn to page 444 of Exhibit 50-A? Under the heading there, "Transportation Costs", I notice in the last sentence there you mention an increase of \$10,000 in transportation expense clearing account. What happens to the \$10,000 increase in the transportation expense clearing account when Mystic becomes a part of the combined opera-

tions? A. You will excuse me, Mr. Nowlin, while I check this.

In the case of Mystic Valley, in going from the independent operation to the combined operation, we actually reduced the number of vehicles required. That \$10,000 that went into transportation expense clearing account becomes \$5,000.

XQ. Where is that reflected in the combined basis? A. In the combined report?

XQ. Yes. A. In Exhibit 91, on page 40, it would be, or let me say a part of it would be included in the \$53,400 of distribution of clearing accounts.

[1931] XQ. Do you mean then that the \$5,000 difference reflected on page 40 is due to this item? A. Not that item specifically. There are several items involved.

XQ. Can you tell us what are the components of this \$5,900 figure? A. Well, the \$5,900 figure is the difference between the two columns.

XQ. What makes up the difference? A. The \$53,400 is the sum of stores, clearing, transportation clearing, other minor clearing accounts, less the amounts in those clearing accounts which would be chargeable to other than operating expenses.

XQ. Mr. Simes, could you identify the items through your report which are responsible for this \$5,900 figure? You just mentioned this \$10,000 figure was apparently among the items. Could you identify other items which formed the basis for the \$5,900 figure? A. As I said before, the \$5,900 is a difference between column one and column two. That is obvious. The \$53,400, as I explained before, is the summation of many clearing account amounts, adjusted for what those clearing account amounts would be chargeable to non-operating expense accounts and this balance of \$53,400 is chargeable to operating expense accounts.

XQ. Is there any place in the reports that reflect the [1932] particular items that make up this \$53,400 item?

A. Not in the report itself, no, sir.

XQ. Can you tell us what savings will accrue to Mystic on a combined basis that would make up that, would effect or reduce this \$10,000 figure? A. Yes, sir. I answered that before. I said there would be a reduction in the number of vehicles required by Mystic Valley.

XQ. Where does that appear in the report? A. In which report?

XQ. The Ebasco report. A. It is included in the Section C, page 38. It says the net reduction—this includes the net reduction and total cost of—reduction in total cost of transportation.

XQ. Mr. Simes, if we wanted to determine whether the difference in these two figures of \$59,300 and \$53,400 were accurate, how would we go about checking it from the Ebasco report? A. I don't think it would be possible to check it from the Ebasco report without the use of the backup information which we supplied you.

XQ. You mean backup information which you could supply? A. No, sir, which the staff requested.

XQ. Now, what backup material are you referring to?

Mr. Vorenberg: Do you want to put this in now?

[1933] Mr. Nowlin: I want to identify it so we can get the information to check it.

The Witness: It was my understanding that the staff was sent a group of tables which generally is entitled "Increases in Cost Under Combined Operations". That is the table I am referring to.

Mr. Vorenberg: Mr. Hearing Examiner, Mr. Nowlin has suggested off the record, I guess, that this would be an appropriate time for us to introduce as an exhibit certain backup materials which were provided to the staff at the staff's request.

Hearing Examiner: And which the witness has just referred to on the stand?

Mr. Vorenberg: That is correct.

Further Direct Examination

By Mr. Vorenberg:

Q. Mr. Simes, I hand you a document consisting of fourteen sheets, the first of which is entitled "Increases in Costs under Combined Operation" and ask you to state what it shows. A. This document is in the nature of a tie sheet between Exhibits 58-A and 91 and the derivation of the figures which are found in the second column of page 40 on Exhibit 91. That column sets forth in tabular form a summary of the increases in costs of the eight gas companies operating on a combined basis [1934] but separate from the NEES System, over and above the costs of those companies as part of the NEES system. The first page of this document gives in very brief form the source of the information set forth on the succeeding sheets.

Q. Will you turn to the second page and tell us what that shows? A. The first column entitled "Payroll" reflects the executive, administrative and staff payrolls as shown in the prior pages of the Ebasco Supplemental Report—Exhibit 91. For example, the \$574,300 is the total of the payroll shown on pages 7 through 9 of that exhibit. You will note that the figure is the same as that shown on page 9—rounded off as have all of the figures on these tables. The other figures shown on that column are taken directly from the executive, administrative and staff portions of the personnel analysis of each company in Exhibit 91. The \$35,000 shown in the second column under "Expense Reimbursement" represents projected expenses of certain top personnel projected on a basis comparable to the expenses incurred in 1958 by Gas Division personnel. You will note

at the bottom of the first column that there is an adjustment of \$44,400 to reduce the payroll to average 1958 levels in order to put it on a basis comparable to that shown for actual system operation throughout Exhibit 58-A.

Q. Where does the figure \$529,900 for actual system [1935] operation come from? A. As noted in the footnote, this comes from the eight separate sections of Exhibit 58A. For example, if you will turn to page 124 of 58A, relating to Central Massachusetts, you will see in the table at the bottom under "Payroll" the figure \$35,600 as being the actual payroll and the figure \$1100 as being the figure for expense reimbursement. These are included in the \$529,900 figure under "Payroll" and the \$16,000 figure under "Expense Reimbursement." Similarly the NEPSCo billing for services which is shown on each of the pages indicated and the amount billed by Worcester (applicable only to Central Massachusetts and Wachusett) are taken directly from the Exhibit 58A. The next step is that these three items, actual payroll and expense, NEPSCo charges and the Worcester billings are deducted from the \$921,400 figure which represented the total for executive, administrative and staff and pro forma combined operation. In order to make the figures comparable there must be added to the resulting figure payroll taxes and fringe benefits on the increased payroll. This results in the total figure of \$188,200.

Q. Would you explain the tabulation at the bottom of page 2? A. This study shows the distribution of the net increase in cost to various accounts in accordance with the Uniform [1936] Classification of Accounts of the Massachusetts Department of Public Utilities.

Q. Will you proceed with your explanation of these sheets? A. The information shown on pages 3 through 7 was taken from the respective pro forma organizations of the gas companies on an independent basis as shown in each section of Exhibit 58-A relating to each such gas com-

pany, except where changes in costs would result from combination of the eight gas companies. Such exceptions are explained either by a footnote or by detailed schedules. For example, if you look at the tabulation at the top of page 3 relating to production, distribution, utilization and garage, you will see that with the exception of Mystic Valley the figures are taken from the sections of Exhibit 58-A dealing with production, distribution, utilization and garage for the pro forma operation of each of the gas companies. For example, the figure with respect to Central Massachusetts comes from page 126.

Q. In other words, Mr. Simes, with respect to the seven gas companies other than Mystic there would be no changes in costs of production, distribution, utilization and garage between independent and combined operation? A. That is correct. Now with respect to Mystic Valley if you will turn to page 447 you will see that the \$1100 reduction in operating expenses represents the difference between [1937] the customer service order item of \$4300 and the garage item of \$3200. The payroll taxes with respect to garage activities are also taken over. The utilization engineer, which is the other part of production, distribution, utilization and garage function for Mystic, is eliminated from the tabulation on the top of page 3 since in the combined operation he would be part of the central organization rather than in the Mystic Valley local organization.

In instances where it was helpful to attach a schedule, we did so. For example, if you will look at Supplementary Schedule No. 1, you will see that it gives the breakdown of the increase in new business cost for Lynn under pro forma combined operation.

Q. Will you explain the insurance figure on the top of page 6? A. The figures shown there come from Exhibit 92 introduced by Mr. Pearson. As noted, no attempt was made to allocate the increases among the various companies since

for the purposes for which it was introduced that was not necessary.

Q. If I may summarize, Mr. Simes, the purpose of this worksheet which you have introduced is to show the derivation of the second column on page 40 and to show in particular that they derive from the figures set forth in Exhibits 58-A and 91; and to the extent that the figures on a combined basis are the same as on an independent basis, you have so indicated? [1938] A. That is correct.

Q. Did you participate in the preparation of this document? A. Yes.

Q. Is it true and accurate to the best of your knowledge and belief? A. Yes.

Mr. Vorenberg: Mr. Hearing Examiner, I would offer this as Respondent's Exhibit 105.

Mr. Nowlin: No objection.

Hearing Examiner: This exhibit comprising fourteen pages concerning which the witness has been giving testimony is admitted as Respondent's Exhibit 105.

(Respondent's Exhibit 105 was received in evidence.)

Cross Examination (Continued)

By Mr. Nowlin:

XQ. Now, returning, Mr. Simes, to the distribution of clearing accounts and the figure \$59,300, on the eight gas companies on an independent basis and the eight gas companies on the combined basis, \$53,400, and the difference of \$5,900, can you point to any portion in Respondent's Exhibit 105 that will enable the staff to check these figures? A. It would be necessary to go through this Exhibit 105 to add up the increases and decreases in the clearing accounts.

XQ. Where are they shown? [1939] A. They are scattered all through here when we distributed the various in-

creases whether it is distributed to a clearing account or operating expense account. For example, on Supplementary Schedule No. 3, in the lower half of that tabulation, there is column there stating "Stores Clearing," which indicates the dollar increases over actual which would be put into a clearing account.

XQ. Mr. Simes, could you check off for us on Respondent's Exhibit No. 105 the component parts of the aggregate of \$53,400 reflected on page 40 of Exhibit 91? A. These figures, as I stated before, are items which are charged to clearing accounts, which when they are cleared are then separated between those that are charged to non-operating expense accounts and those which are charged to operating expense accounts. The \$53,400 on Column 2 are those items of the increased amounts in clearing accounts which would be chargeable to expense accounts, operating expense accounts.

XQ. Can you identify them on Exhibit 105? A. To reach a total of \$53,400, no, sir.

XQ. Then how can the staff check these figures? A. That is true. The only thing that you would need, the sum of the clearing account, and it is a necessary part, the only thing that you would need would be the split between the amount of the clearing accounts chargeable to plant and the amount chargeable to operating expense.

[1940] XQ. Mr. Simes, isn't it a fact that you have given us an intolerable burden in trying to check the accuracy of these figures?

Mr. Vorenberg: I don't think it is fair to say Mr. Simes is giving you an intolerable burden.

Mr. Nowlin: He prepared this report, this particular phase of it, and I imagine he supplied it to the Ebasco report. This is the second or third time, Mr. Examiner, that we have been confronted with this kind of a situation.

Mr. Vorenberg: Mr. Examiner, in this connection I think

I should state that the Ebasco representatives and the NEES staff have frequently in response to requests, informal requests from the staff, offered to work with them to assist in connection with making computations in connection with this report and other materials. We have had introduced in this proceeding already a number of letters and other information which has been furnished in that connection, and I can assure you that that availability and cooperation will continue. It is not fair to belabor Mr. Simes with the charge that he has imposed this intolerable burden on the staff. It is a terribly complex situation, as I am sure Mr. Nowlin realizes.

Hearing Examiner: What is before me for decision? Is it just an argument here between counsel as to whether this material which is set forth in Respondent's Exhibit 105 is an intolerable burden thrown on the staff? Is that evidence? What [1941] am I to decide? Isn't this just a quarrel between counsel as to the import of these figures?

Mr. Nowlin: Mr. Examiner, it runs deeper than that. I am beginning to formulate the view that this report is so deficient in respects of which it is being offered—

Hearing Examiner: Well, that is an argument for you to make before the Commission, not before me.

Mr. Nowlin: You asked the question and I am trying to answer it. I have not reached the definitive conclusion to point these things out. It may come to the point where I will ask the Examiner to reject these exhibits as evidence for the purpose for which they are presented.

Hearing Examiner: Ask the witness a question in view of the argument which has ensued, and I will rule on it if there is an objection.

Let us suspend for a moment.

(Whereupon, a short recess was taken.)

[1942] Hearing Examiner: Let us come to order.

Mr. Nowlin: Mr. Examiner, I should like to request of

counsel for the respondents that they supply the staff with an itemization or breakdown of the \$53,400 figure that will enable us to make some accurate appraisal or check of this figure.

Mr. Vorenberg: We will be glad to do that, Mr. Hearing Examiner.

Hearing Examiner: Very well.

By Mr. Nowlin:

XQ. On the same page, Mr. Simes, page 444 of Exhibit 58-A, you state to the effect that under independent operations six additional vehicles would be leased. Explain what is meant by the \$6,000 operating cost, plus \$4,000 for interest and amortization. A. Well, of the total leasing cost, \$4,000 are items of cost that do not go into operating expense. These are the interest that you in your leasing arrangements pay interest, and amortization as part of your lease cost. Then there are \$6,000 of operating cost, as is stated here.

XQ. Now, tell me does Mystic and the NEES companies lease vehicles, or do they purchase them? A. Yes, Mystic Valley is the only company that leases vehicles.

XQ. What kind of vehicles are these? [1943] A. Well, they are passenger cars, and my recollection in discussing it, I believe they lease their entire fleet.

XQ. Are they trucks or passenger cars or what type of vehicles? A. Passenger cars and trucks.

XQ. The companies don't purchase them outright? A. Mystic Valley is the only one that leases.

XQ. Who do they lease from? A. Offhand I can't recall.

XQ. Well, now, on what basis do they lease these vehicles? A. You realize, Mr. Nowlin, that this line of information which I obtained was about a year ago. I am not sure that I can recall exactly the basis of this detail.

XQ. Well, let's take one truck, for example. Do they lease that from some automobile dealer in the area?

A. No, it is a fleet leasing. You make arrangements for the total number of cars and trucks that are required.

XQ. Then what do you do from there? You make arrangements. Now, what kind of arrangements are made?

A. They provide the cars, and as I recall, they have a—

Hearing Examiner: Who is they?

The Witness: The company from whom you make the leasing arrangements. You service them yourself. This generally is not included in the lease arrangement.

By Mr. Nowlin:

[1944] XQ. Well, the thing that is puzzling me here is this amortization and interest on the equipment that they are not purchasing. Can you explain that in more detail to us?

A. Well, in a leasing arrangement there is in general in determining what the lease cost or the rental is going to be, there is an item that the company who is providing the vehicles includes for his interest and amortization of the vehicle. Now, this is included in the rental price.

XQ. I know of my own knowledge of some arrangement I think, for buses. For example, for bus companies, instead of buying the bus outright, it will lease it from either the manufacturer or dealer, and the lease rentals are adequate to amortize the full cost of the vehicle over a period of years. A. That is right.

XQ. Is that the kind of arrangement you have got here?

A. Yes, sir.

XQ. What is this arrangement? A. I am speaking of in the total rental amount is an included amount for interest and amortization not on the company's part but on the part of the company that you are leasing your vehicles from. This is included in the rental figure.

XQ. But this rental figure paid by Mystic will amortize the cost of that vehicle over a period of time? A. Yes, sir.

[1945] XQ. Now, do you know why Mystic is the only company in this system that has this lease arrangement? A. I am not sure I recall. I am afraid I don't recall the reason.

XQ. Isn't this \$4,000 item really a rental expense as far as the lessee is concerned? A. You mean insofar as how you handle it through your accounting system or are you talking about in the leasing arrangement that you have?

XQ. The lessee's accounting. A. Well, I would say that it would depend upon whether or not you can determine the figures which are part of your lease cost.

XQ. Why does the lessee call this interest and amortization rather than rental expense? A. Well, when you know the factors that are involved and can identify them, why call them by any other name? I am sorry I didn't mean to answer that by a question, but it is rhetorical question really.

XQ. As we understand it then, Mr. Simes, this is just a difference in label, this \$4,000 is a rental expense irrespective of what you call it? A. That is correct.

XQ. Now, directing your attention to Exhibit 58-B at page 1527, you notice there that the total Service Company [1946] billings for 1958 amounted to \$317,193.07. Can you tell us how much of these total billings were charged by the gas companies to capital account? A. If you will bear with me a moment, I am not sure I have that detail, but I will look. Of the \$317,193, \$63,155 was charged to plant, \$14,651 was charged to reserve, Account 319.

XQ. And the balance was charged as an operating expense or how? A. Well, there are some other items.

XQ. Oh, pardon me. A. \$3,676 was charged for maintenance reserve, Account 320; \$3,108 was charged to stores clearing. Then the breakdown of the amounts that come into the operating expense accounts \$230,497 charged directly to operating expense accounts, \$1,542 to preliminary

engineering, \$164 to maintenance work in progress, and the total of those four items comes to \$235,300.

XQ. What was the \$14,651 that you reserved? Was that reserved for depreciation? A. My notes state Reserve Account 319. A quick check of the classification of accounts, I could get the answer for you. I don't know which—

XQ. Will you obtain the answer for us? A. May I step down?

Hearing Examiner: Yes, sir.

[1947] Hearing Examiner: You may give your answer.

The Witness: That is depreciation reserve, Mr. Nowlin.

By Mr. Nowlin:

XQ. Mr. Simes, when you look at page 2 of Respondent's Exhibit 105— A. Yes, sir.

XQ. —you will find there NEPSCO an amount of \$235,300 under billing for services. Was that all charged as an operating expense? A. Yes, sir.

XQ. Then the difference between these, the \$235,000 item and the \$317,000 item, amounting to \$81,893, was charged to non-operating expense? A. I will have to accept that figure. I didn't make the subtraction, but they were charged to non-operating expense accounts, yes.

XQ. Now, what allowance, if any, was made in the Ebasco estimates for charging a portion of the gas company's pro forma payroll to capital accounts, and please answer by reference to the figures contained in Exhibit 58-A and 91?

The Witness: May I have that question again?

(The pending question was read by the reporter.)

Mr. Nowlin: Strike that question and I will ask another one.

[1948] By Mr. Nowlin:

XQ. Isn't it a fact, Mr. Simes, that the personnel set up on the Ebasco reports on a pro forma basis was designed to perform the functions formerly performed by the service company? A. Well, we didn't set up these organizations

specifically to perform functions that had been previously performed by the service company. We set them up to operate a gas company. Certain functions we know have to be performed. We staffed them to perform those operations.

XQ. But you did project enough personnel to do the job and render the services previously performed by the service company, isn't that correct? A. Not completely, no, sir. There were services performed by the service company which we have not provided for in the pro forma organizations.

XQ. By and large doesn't your report, though, reflect personnel to perform the major part of the services previously performed by the service company? A. Well, as I stated before, it is difficult for me to answer that question because we didn't go at it that way. We set up the pro forma independent organizations and the combined operation on the basis of the functions that had to be performed regardless of what was done before.

XQ. Where did you get your basic material to form a [1949] conclusion as to the personnel that would be required on a pro forma basis? A. This is from our knowledge of what is required to operate a gas company.

XQ. Isn't it true, Mr. Simes, that the only services reflected in the Ebasco pro forma estimates on a combined basis that are outside consist of independent audit and legal services? A. When you say combined basis you are referring to Exhibit 91.

XQ. The eight company basis. A. The only dollar amounts that we included for outside services were for outside auditing and outside legal counsel.

XQ. Therefore, it is a fact that the staff set up on a pro forma combined basis will handle and render the services previously performed by the service company? A. Not in its entirety, no. There is really no connection. There

are services that are performed by the service company which become available simply by the size of the New England Electric System and which can be provided at very low cost. We didn't go out and provide that sort of thing for the independent companies or for the combined operations in some instances.

XQ. Do you know of any instances where you provided personnel to perform services that had not been previously performed by the service companies? [1950] A. I am not sure that I understand that question. I am sorry.

XQ. Mr. Simes, directing your attention to page 1527 of Exhibit 58-B, and to the particular items "services rendered by the service company", who will now on a combined eight company basis perform the plant accounting and reclassification work, or will that be done at all? A. Yes, there is certainly the function of plant accounting that has to be performed, and in our staffing we have provided the necessary personnel to perform the required function.

XQ. All right. Now the same question with respect to the audit reports method assistance; that will be done internally by the pro forma eight combined companies? A. Not to the extent that the audits and methods assistance group of the service company provide it. We didn't provide that large a staff. We did provide for, I think you will see on page 8 of Exhibit 91, a group which will perform the internal audit with the assistance of people in the field that we have provided under the supervision, of course, of the assistant treasurer and treasurer, but so far as the systems and methods part of that, which New England Electric System provides, we haven't provided, in my opinion, a large enough group to perform those functions.

XQ. You mean that the pro forma combined companies will [1951] do without those functions? A. Which functions are you speaking of?

XQ. The audit functions. A. Those I mentioned, the in-

ternal audit will be provided under the combined operations as we visualize the staffing. What I said or what I intended to say was that a good part of the methods, the systems and methods planning and programming and development of new methods, a company that size has to do without that sort of thing.

XQ. Now, on a pro forma combined basis haven't you provided for corporate services? A. To the extent that it is required, yes, sir.

XQ. Well, won't it be required on a pro forma basis to the same extent that it was required before? A. In this instance we have provided for outside legal counseling, which would be included in these corporate services provided by New England Service Company—New England Power Service Company.

XQ. That is part of your outside professional help, isn't it? A. We have provided for a general counsel, and in addition, we have provided for outside professional help.

XQ. Are you referring to the \$10,000 of outside legal services reflected on page 6 of Respondent's Exhibit 105? A. Yes, sir.

[1952] XQ. Now, let's go down to the next item of insurance and medical assistance. Doesn't the pro forma combined companies of Ebasco reflect those costs, or costs for insurance or medical assistance? A. We have provided for an individual who under the treasury organization and in our whole E&A staffing of the combined operation for taking care of insurance matters. So far as the medical assistance that was provided by the service company, we haven't provided anything to the extent that they provided.

XQ. Didn't you provide among professional services—strike that.

How about the next item? Didn't you provide for labor relations assistance in your pro forma eight company estim-

ates? A. In general we have provided in our total E&A staffing people who are going to have to take care of the labor negotiations.

XQ. Now, will you take each one of these successive items and tell me wherein you have not provided in the pro forma estimates? A. Before I do that, Mr. Nowlin, there is one thing I would like to make clear, that in providing these services in every instance, as I attempted to make clear as I went along, there was no attempt on my part in staffing this combined [1953] operation to pick up in toto the services provided by the service company. We staffed it to provide the necessary functions. Now, some of these functions correspond to the services in a general way only to the services provided by the service company. With that preface I will start down the list.

In the case of sales department assistance, I think you will notice here that this was very negligible from the service company. We have provided a sales organization in the combined operation.

Under publication services, we have not provided a publications and publicity group to the extent that the service is supplied by the service company. We have said that there would be a type of house organ which we think a company of about 240,000 accounts could afford, nothing of the nature of the Contact that NEES puts out.

Under purchasing and stores services, we have provided a purchasing agent in the staffing organization, but I believe that in visualizing the duties of this individual I don't see how he or his staff can provide the stores assistance that the service company provided in the form of setting up store areas in the most efficient, the most economical fashion, in setting up inventory requirements and things of that nature, which is a very important function, but the staff that we have provided, I don't think can offer those services.

In the case of rate services we have not set up a rate [1953(a)] department at all. In my thinking on the thing I thought that one of the vice presidents I provided for in the E&A pro forma combined operation would be in general responsible for the area of rates, both rates to the company from the pipelines and retail rates to its customers; that again, the treasury organization of the pro forma organization would have to be called upon for statistical information, but if it were a major rate case they would have to go outside for both legal counsel and probably for expert help. We have not provided a staff for a rate department.

In the case of tax services we have designated in Exhibit 91 one of our treasury assistants as being—we would try to find a man who had tax experience to fit into that category.

Under the category of treasury services we have provided a minimum organization to perform them.

XQ. Now, isn't it a fact then, Mr. Simes, that in your pro forma estimates for the eight gas companies combined you have provided for the same type of services that had previously been rendered or are now being rendered by the service company, haven't you, except perhaps not to the same extent? A. Again, I want to in answering your question, I want to state very emphatically that what I did in manning this was first to determine what functions had to be performed. [1954] Obviously there are functions of a gas company that have got to be performed for which we had to staff, and which the service company provided or which in some instances the gas division provided. Those functions we have staffed to operate. There is no connection between the two. I keep insisting on that.

XQ. It just happens that your estimates happen to provide for the same type of services that were rendered by the service company, is that your testimony? A. Mr. Now-

lin, to operate a gas company certain functions have to be performed.

XQ. Now, do you know of any services that you did provide for the eight gas companies combined that are not now being rendered by the service company? A. All of the engineering.

XQ. Oh, I mean in these categories. A. In the servicing division, I can't recall any, again, because it is the functions that have got to be performed.

XQ. Now, turning to the engineering, Mr. Simes, the services previously performed by the service company will now be performed by the eight combined gas companies by themselves in your pro forma estimates, isn't that correct?

No, not completely, sir. A good part of this cost is blueprinting and things of that nature, or a specific drafting job, which the gas division is not geared to do, that will have to be done outside, and we did not provide any dollars for that [1955] particular type of work.

XQ. That wouldn't be a substantial figure anyway, would it? Blueprinting. A. You picked blueprinting alone.

XQ. Well, I will let you pick the items that you didn't include. A. Drafting could be a very expensive item if you were contemplating a major construction job.

XQ. Well, wouldn't that cost go into construction cost as a capitalizable item? A. Not the preliminary engineering.

XQ. Was any part of the engineering cost aggregating \$11,265.16 capitalized by the gas companies? A. Yes, sir.

XQ. Do you know what portion of that amount? A. No, I don't.

XQ. To the extent that the combined companies are going to do the engineering services previously performed by the service company shouldn't that be capitalized by the gas companies? A. To that extent, yes.

XQ. Have you made any provision in your pro forma

estimates for capitalizing any part of the new payroll costs of the eight gas companies combined? A. When you say any part of the new payroll, are you [1956] speaking of the engineering group?

XQ. Engineering. A. Yes, sir, we have.

XQ. Would you point out where you have given effect to that item in your report? A. On page 2 of Exhibit 105 in the distribution of accounts we have taken part of the engineering groups' payroll chargeable to expense account as it was in 1958 and part that was chargeable to plant.

XQ. Now, which specific items are you referring to, Mr. Simes? A. The net figure of \$12,600 is a net of many items.

XQ. Now, what part of this \$205,900 item did you capitalize? A. The \$205,900 item was not capitalized at all. That is all charged to operating expense accounts.

XQ. Doesn't the \$205,900 include engineering? A. A part of it, yes, sir, the part that is chargeable to operating expense accounts.

(Discussion off the record.)

By Mr. Nowlin:

XQ. Mr. Simes, how much of the pro forma engineering payroll for the eight gas companies was capitalized? A. I don't have that exact figure handy, Mr. Nowlin. I can state in the hope of clarifying what we were trying to straighten up before, that, as you recall in our Exhibit 91 we [1957] established the gas engineering group as it had been under the gas division. This was the start of our nucleus of the formation of the combined operation of E&A.

In 1958 there was a certain proportion of the engineering of the gas division which was chargeable to operating accounts and a certain portion chargeable to plant accounts. Now, since we are taking the group in its entirety to do the same functions we assume that that relationship would remain the same. We have taken that same relation-

ship, and therefore it becomes a wash as between the actual 1958 and the pro forma that we provided.

XQ. Well, could you explain that figure at the lunch period, Mr. Simes? A. I don't know whether at lunch-time or not, but I could get to work on it right away for you.

XQ. I believe you testified that of the \$317,000 odd aggregate service company billings for 1958, \$63,155 was capitalized in plant, is that right, sir? A. Yes, sir.

XQ. What is the analogous figure to the \$83,155 in the pro forma estimates of Ebasco? A. Well, this \$63,155 of service company charges was almost entirely the construction division. We have not provided for construction dollars in our pro forma estimate. What construction has to be done by the gas companies will have to be [1958] done by outside contractors, which is the way they provide most of their construction now.

XQ. Do you mean that you would have to go outside of the combined eight gas company organization to get the construction services previously performed by the service company? A. Are you speaking of a specific item here? Which item are you speaking of?

XQ. Construction performed reflected on page 1527 of Exhibit 58-B. A. Of \$88,858?

XQ. That is right. A. Most of that, yes. However, included in the construction group were, as I think I mentioned—I think its title is foreman—the holder mechanic and his helper. That is primarily maintenance work, but this \$88,858 represents the divisional charge of the construction division by the service company to the eight gas companies.

[1959] XQ. For a similar service, you have to go outside, on a pro forma combined basis? A. With the exception of the holder mechanics helper, which we have provided for in the pro forma, they would have to go outside to get the con-

struction work, yes, sir. You understand, they do most of their construction work with outside contractors, now.

XQ. Who actually performed this construction work effected on Exhibit 58-B, page 1517? A. New England Power Service Company.

XQ. Do you mean the service company actually does a construction service for the gas company? A. Some part of it.

XQ. Is it not a very minor part? A. Oh, I think you can see from the figure of \$88,000¹ that it is a minor part.

XQ. Are these \$88,858.84 for billings, for services performed, for the eight gas companies? Would they have to go outside on a pro forma basis to get these services? A. As I said before, with the exception of the holder mechanic and his helper, whose charges are included in this \$88,858, we have provided for them in the pro forma organization.

Now, all the other construction services will have to be performed outside.

[1960] XQ. Now, can you tell me just what specific service work is performed in connection with \$88,000 charges?

A. I am again sorry, sir. This is a year ago. At that time, we went into the various services that were performed, but I don't have it right now.

Mr. Vorenberg: Do you mean the type of services?

Mr. Nowlin: There is nobody in the pro forma organization that you set up that can do this construction performance?

The Witness: As I said, so far as the functions performed by the holder mechanic and his helper, who are part of the service company, construction division, we have provided for them in the pro forma organization.

XQ. And don't you have engineers provided for in the pro forma estimates that can do these same services previously performed by service company employees? A. I

thought we were talking about the \$88,858 of construction performance.

XQ. That is right. A. This is not the engineering. We have already discussed that. I said we set up an engineering staff. We set up an engineering staff to perform the engineering functions. This is construction services.

XQ. Well now, can you specify just what construction [1961] services are? Just what are they? A. Well, as I said, this is a year ago, since I went into this particular thing, but I can give you an example of the type of thing that they would perform.

Number One, you must realize that the preponderance of construction work performed or required by the gas company is done by outside contractors.

Now, where they have a special job, which again I am giving you an example, which may come up in any kind of gas company, where you have a particularly difficult tap to make, you may call on a specialist who performs this kind of work for the service company.

Now, they will have to go outside and get an outside contractor to do that work.

XQ. Well now, what employee does the service company now have, that would do that work? A. They have any number of construction employees. I think I mentioned in Exhibit 58-B under the service company, the people and the types of people who performed; the people and types of people of the construction division who performed work for the gas companies.

XQ. Well, it is my recollection—maybe I am wrong—in the direct testimony, that the gas company is almost self-sufficient. A. Engineering is separate from construction, sir.

[1962] XQ. And that the service company performs only a minor amount of services in that connection. A. In engineering.

XQ. If the construction is done by outside people, what work is there to be done by the service company? A. Well, as I said, if you are going to run a main for several miles for either reinforcing of the system or for load-growth, in general, the gas companies go outside and get bids to do this job, to run this main.

Now, there will be certain specific quick jobs where you are not going to call a contractor in if, through your knowledge, you have a particularly good man in this field over in the service company, and you put in a special request for his services to do this quick job. This is the sort of thing that builds up the \$88,000.

XQ. Do you mean then that these engineers' staff that you projected for the eight gas companies are not qualified to do that work? A. Sir, this is not engineering work I am speaking of. This is field construction work—a welder who gets down and welds two pieces of pipe together.

XQ. Have you not provided for welders for the eight combined gas companies? A. No, sir. They are going to use outside contractors.

[1963] XQ. Directing your attention, Mr. Simes, to page two of Respondent's Exhibit 105. A. Yes, sir.

XQ. Will you look at the figure of \$188,200. A. Which one? There are two.

XQ. The total covering executive, administrative staff. Total executive, executive personnel cost, payroll cost.

Is that right? A. That is the increase.

XQ. The increase? A. Yes, sir.

XQ. Now, how does that \$188,200 jump to \$205,900, which is shown on that page, and also carried over into page 40 of Exhibit No. 91? A. You will notice on page two in the third column, labeled Payroll, that the actual increase in payroll is \$356,500.

XQ. But when you deduct the NEPSCO billing, it comes to \$188,200. Isn't that right? A. Well, in going through

the upper half of this page two, you go from the increase of \$356,500. You add the increase in expense reimbursement. You add a \$53,500 for payroll taxes and fringe benefits; and from that—excuse me—subtracting of course, the service company and the billings of Worcester, you will come up to the \$188,200.

XQ. That is the increase dollar outlay that the eight [1964] combined gas companies would have to make, is that correct? A. The increased dollar outlay. Well, I am not sure I would use your same terminology but insofar as it represents the increased cost of payroll expense, reimbursement tax and fringe benefits, less what the service companies can charge, yes, sir, that \$188,000 represents that.

XQ. Why is the \$188,200 figure the additional cost which is being incurred? A. I think that you will see here, on page two, if you were to work backwards from the \$188,200, there is a reduction of—a net reduction of \$12,600 in clearing accounts.

Now, that net reduction of \$12,600 in clearing accounts is moved over to operating expense accounts. The effect of the series of reductions and clearing accounts—we have in this instance, charged on a net basis, clearing accounts, \$12,600 less and operating expense accounts, \$12,600 more.

XQ. Can you give us the makeup of this \$12,600 clearing account item? A. Well, I don't have those details with me, but one of the items, for example—

Mr. Vorenberg: Excuse me. Isn't that one of the items you already requested?

The Witness: I think so.

[1965] Mr. Vorenberg: That is included in the request that has already been made which we would agree to supply you.

Mr. Hearing Examiner, the staff has asked at this time that we introduce as an exhibit, the letter which Mr. Hanson

wrote to Mr. Gishman on December 7, 1960, providing some information at Mr. Gishman's request.

This letter gives the reconciliation of the \$1,300 increase in executive, administrative staff cost to the accounting effect of such increase for the year 1958. All is shown on pages 719 and 720 of Exhibit 58-A. We suggest that this be offered as Respondent's Exhibit No. 106.

Hearing Examiner: I hear no objection.

Mr. Nowlin: No objection.

Hearing Examiner: The letter is so admitted in evidence.

(Respondent's Exhibit No. 106 was marked for identification and received in evidence.)

Mr. Vorenberg: The only question is whether Mr. Nowlin would like this with some other number, related to something else. We will do it any way you want.

By Mr. Nowlin:

XQ. Mr. Simes, directing your attention to the second sentence, in the second paragraph of Respondent's [1966] Exhibit 106, it indicates that \$1,900 of Norwood pro forma executive payroll would normally be charged to construction. In your analysis of Norwood's increase cost contained in Appellant's Exhibit 58-A, did you make any allowance for such normal charge to construction? A. Are you speaking now of the independent Norwood, as an independent company?

XQ. On an independent basis. A. On an independent basis, yes.

XQ. Yes. A. Yes, sir. We have.

XQ. Can you indicate where the charge is made? A. Well, we did not—

You notice on page 720 of Exhibit 58-A, the spread of the cost of \$1300 to the various accounts: \$10,700 to operating expenses net to other clearing accounts; \$200 payroll taxes; \$9400 other accounts.

Now, in general, so far as our procedure was concerned, in arriving at these figures, we attempted to segregate cost to operating expense accounts and non-operating expense accounts, all through here.

Now, the net effect of this amount of E & A that would be chargeable to plant accounts is taken into consideration in this net figure of \$9,400 which consists of several items. [1967] XQ. What other accounts were you referring to, Mr. Simes? A. Well, there would be charges to tax accounts; there would be charges to—I am sorry. We have the payroll taxes separate. Plant accounts.

XQ. How much would go in plant accounts? A. Well, offhand, I don't know that particular detail.

XQ. Do we understand that this \$9400 plant account would be relieved of a charge which would otherwise be made to it? A. Well, I cannot say that specifically without going back into all of the details.

This again, is a netted figure. For example, when you were asking me, it suddenly occurred to me, one of the items that is included there is merchandise. Just that part of this \$9400 and its breakdown, I don't have available right now.

XQ. Well, whatever that part may be, would not the plant accounting be relieved of that part? A. It would depend on whether it was an increase or a decrease.

As I say, I don't have the details of it.

XQ. Are there other similar charges among the other eight gas companies comparable to this on a pro forma basis? [1968] A. Are there other similar—which charges are you referring to?

XQ. Well, the item of \$9,400. Are there other similar items for each of the other eight gas companies? A. Well, you will notice, I grabbed Mystic Valley, because it is the largest. Well, on page 433, the figure there is a reduction of \$1,200 to other accounts.

XQ. What page is that? A. Page 433 of Exhibit No. 58-A.

I would say in general, in answer to your question, Mr. Nowlin, yes, sir; because of the merchandising item for one example.

XQ. Directing your attention to page 719 of Exhibit 58-A, it shows an increase—total increase—of \$1,300.

A. Yes, sir.

XQ. Now, on the next page, 720, the operating expense is increased \$10,700 and this \$10,700 becomes a part of your claimed increased cost, does it not? A. Yes, sir.

XQ. Isn't the difference between this \$1,300 figure and the \$10,700 due entirely to an accounting convention?

A. An accounting convention? I am sorry. I don't understand what you mean.

XQ. In other words, it is due entirely to the label [1969] that is put on these items, accounting-wise? A. Well again, without clearly understanding what you mean by labels, there certainly has been clearly established through the years, a uniform system of accounting. Almost every state I know of has established a uniform system of accounting, which public utility companies are required to follow in their accounting.

Hearing Examiner: Off the record.

(Discussion was had off the record.)

XQ. Referring to page 40 of Respondent's Exhibit No. 91, and particularly to the item in Professional Services of \$20,000, the eight gas companies, combined basis, it is my understanding that is made up of \$10,000 for auditing services and \$10,000 for legal services.

Is that correct? A. That is correct. Yes, sir.

XQ. Now, isn't a portion of that \$20,000 item chargeable to capital instead of operating accounts? A. No, sir.

XQ. What work does the \$10,000 for professional services cover? I mean, legal services? A. As we stated in

our text of Exhibit 91, the \$10,000 of legal service requirements are for extraordinary items which the general counsel we provided for in a staff would not be able to handle. Not because of his lack of [1970] professional ability but because of lack of time on major items.

XQ. What major items did you have in mind? A. Well, I was visualizing something of the nature of a major tort litigation; a major rate case which incidentally was in the sense of a major rate case. We did not expect that to occur every year, so we pro rated it over a period—the \$10,000 does not include one particular rate case. We would certainly have to go outside for legal services, I believe, in the case of a major labor negotiation. This is the sort of thing I had in mind—major items.

I don't see where any of those could be chargeable to plant.

XQ. Who is going to do your condemnation work in areas where you may have to condemn property or pipeline, or the franchise work in the local communities? A. To the extent that that would be required in—as I visualized it—the E & A staff, the general counsel would handle this under its normal work.

XQ. Well, isn't there a great deal of that type of work, establishing rights of way and condemnation work and local franchise work, that is being done by the system now, for the system companies now? A. I am not sure I understand you. Done by the system companies?

[1971] XQ. System counsel or outside counsel? A. Yes. To a great extent by the service company.

XQ. Well now, would not those services performed for those purposes, be kept aside? A. Again, to the extent that any items that would be not chargeable to operating expense account were taken out on the assumption it would be about the same as it was in 1958; but it would not come out of the outside legal services, because I explained—as I

explained, the items that I had in mind for the outside legal services were not involved in the plant.

XQ. Would not some portion then of the general counsel's salary be kept aside for that type of work? A. It is conceivable but as I already explained, it goes back to page two of Exhibit 105 and then that difference there.

XQ. Turning again to Exhibit 91, page 19, you will note that the total executive, administration, etc. of the local organization, amounts to \$58,840—on page 23 of Exhibit 91, the comparable figure for Mystic is \$61,603.

Is that correct? A. Yes, sir.

XQ. Now, is not Mystic about twice the size of Lynn in terms of gas customers? A. That is correct.

[1972] XQ. How do you explain the relatively small \$2,763 difference in these two items? A. You are speaking now solely of the very top echelon of these individual companies. I don't think that you can make any direct comparison without going into what is underneath them and what is above them.

XQ. Well how do you justify this type of areas, in view of the size and scope of the operation? A. I think you will find sir, that the primary difference is in the inclusion of administrative assistant in the case of Lynn Gas Company because insofar as the other positions are concerned, they both have a vice president, manager; they both have a general superintendent. In the case of Mystic, because again, of the size, in the Treasury area, where you have the greatest staff and a greater amount of work, we have a chief accountant and assistant chief accountant, versus only a chief accountant in the Lynn Gas Company.

So actually, what we are talking about primarily is the difference of the administrative assistant.

XQ. Well— A. Now, I am trying to go back over my thinking on this thing. It is quite a time. All I can say is that I know, in the thoroughness and detail with which

I went through this staffing, at that time, I had a [1973] reason for that executive assistant.

Right now, I don't want to try to pull something out of the air because I know that in developing this, it may have pertained to—as an example again; I am not sure—it might have pertained to the particular characteristic of the Lynn territory or the particular nature of its operation but I cannot tie it down right now.

XQ. Well, why does Lynn need an administrative assistant when it is only half the size of Mystic, which does not have an administrative assistant? A. As I say, that is what I was trying to recall to mind. I know, at the time I staffed this organization, I had to go through every position, position by position.

XQ. Well, you are unable to explain— A. I am sorry. It has escaped me right now.

XQ. Well now, on page 19 of Exhibit 91, I notice you provided here for an operating electrician, electrician first class.

Why are they provided for, in a gas company? A. Sir, the question of titles again is the situation here. We need—I have gone over the operating department staffing requirements to run the oil-gas plant that they have in Lynn. Now, whether you call a man an operating electrician or an electrician first class, or whatever you call him, this is something that has grown up with the [1974] Union. This situation, they are going to have to retain those titles, but the man performs the function that is required.

XQ. Well, are these titles here—are the two personnel put on here because of agreements with the Union? A. No. sir. They are put on because they are needed to perform these functions.

XQ. What function is this operating electrician and electrician first class going to perform for a gas company?

A. In the case of the Lynn Gas Company, the electrician, first class, and the maintenance man, first class, they would be doing maintenance work around the plant and of course, you realize that in the gas plant, there is a great deal of electrical equipment to operate these plants, particularly I am speaking of Norwood. This is true of an L. P. air plant, too; where we have used that title in the case of Lynn, and in the case of other companies, you will see where they have oil gas sets; we have utility workers; we have engineers; we have firemen—in that category.

Now, these men are performing the same type of work. When you walk into a gas plant, an oil-gas plant, there are certain functions that have to be performed, regardless of what you call it.

[1975] XQ. Well now, doesn't Mystic have a standby plant, too? A. Yes, sir.

XQ. Well, does that require an electrician, comparable to Lynn? A. They don't call them that. As I mentioned, well, maybe it would be easier to get at it this way, Mr. Nowlin.

In the case of Mystic Valley you have thirty people in the Production Department of various titles. In Lynn Gas, you have a total of 23.

XQ. Isn't it a fact that the area served by Mystic is much larger than that served by the Lynn Gas Department and that Mystic has almost twice as many customers as Lynn Gas? A. It is true that they have almost twice as many customers. I am not certain of the area.

XQ. It is just difficult for me to understand why, with this very substantial difference in the scope of the operations, that the executive costs of Lynn are almost the same as they are for Mystic. If you could clarify it for me, I wish you would. A. Are we back to what we were talking about before, the administrative assistant, or in the Production Department?

XQ. No. The total executive administrative cost. [1976]
A. We have gone back to the executive and administrative.

XQ. Yes, sir. A. As I told you before, that this was a question of my memory and I don't know how long we would have to sit here, for me to recall just how this particular—

XQ. If you cannot justify it, there is no need to go into that. A. No. It is justifiable but you happened to pick a particular individual out of this entire staffing of eight gas companies in the local organization and ask me to identify this one man, right now.

XQ. Now, I notice that Lynn has, as you indicated a while ago, 23 production employees and Mystic has 30 production employees. A. Yes, sir.

XQ. How does the size of the production plant of Lynn compare with that of Mystic? A. In the case of Mystic, they have three sets that have been converted and three sets that can be operated at all times.

In the case of Lynn, they have only two sets that are capable of being operated at one time.

XQ. Well, is there substantial difference in the production plant? A. I beg your pardon, sir.

[1977] XQ. There is a substantial difference in the production plant of the two companies, then, is there not? A. Insofar as the output capacity, no, because I think the capacity of the sets of Lynn are slightly larger than the individual sets at Malden, in total capacity.

Well, I think in one of Mr. Dolbeck's exhibits, he indicated the capacities of the various plants.

Incidentally, Mr. Nowlin, we also have to take into consideration the fact that there are two L. P. plants in the Mystic Valley situation. My mind had been concentrating on the oil-gas plant because of the electric situation before. There are two L.P. air plants in Mystic; one in Malden; one in Reading, and Lynn has no L.P.; solely the oil-gas.

XQ. That raises a question in my mind as to why does it take so many people to run Lynn, which is a smaller plant. I understand you have six plants for Mystic. A. Oh, no. No. No.

XQ. Did you not say a while ago, there were seven plants in operation all the time, three stand-bys? A. Three sets. Three oil-gas sets in the gas plant which are capable of giving a total daily output.

XQ. Now, turning your attention to page 1427 of the transcript—1413, I am sorry—I believe you testified in effect that the 1958 purchasing department of New England [1978] Power Service Company purchased approximately \$30 million worth of materials and supplies, exclusive of fuel, which is purchased primarily for the electric company and that the gas companies would lose the advantage of bulk purchases.

Is that correct? A. Were you quoting from the record?

XQ. In part, I summarized.

(The pending question was read by the reporter)

The Witness: Yes, sir.

XQ. How much of the \$30 million was spent for materials useable only by the electric companies? A. I would say approximately \$27 million of the \$30 million is for the electric companies.

XQ. Now, what advantage do the gas companies get from purchases of materials useable only by the electric companies? A. Well, I think I mentioned that in my Direct. Many of these vendors are manufacturers of both types of equipment. Now, when you place an order with a vendor for various types of construction tools—well, let's start back again.

We are speaking now of materials that would be used by the gas company or the electric company or both?

[1979] XQ. I am speaking now only by that used by the electric company. A. That is right. Certainly. The large

compressor manufacturers, Ingersoll Rand, Allis Chalmers, any of these large compressor manufacturers, manufacture compressors that are useable either by the gas company or by the electric company. Certainly, in that instance, where you have brought your total construction program together, and know that you need "X" number of compressors, whether they be electric or gas, and even if they vary in sizes, there is going to be an advantage to this kind of purchasing.

XQ. What kind of compressors are you talking about? In regard to the gas? A. With regard to the gas. Compressors that are required in the gas plants, primarily.

XQ. What use are those compressors put to? A. To move the gas that is manufactured out of the plant.

XQ. Does that have any relationship whatever to the compressors used by the electric companies? A. No, sir. I said the same manufacturer supplies both.

XQ. How often and in what volume are such compressors purchased for the gas companies? A. I don't know, sir.

[1980] XQ. Well, would you say that it is rather unusual in a year's time to purchase compressors for gas companies? A. Yes. I think probably in any given year, there may be none or there may be several but it is something that is spread over a period of years and in addition, when I was talking about the compressors, that was the first instance that came to my mind. When you consider the steel that is purchased directly from steel manufacturers; now, the gas companies buy a great deal of pipe.

This will be purchased from a steel fabricator or directly from the steel mills, from the same place that electric companies will be purchasing steam pipes; boiler pipes; boiler plates.

XQ. What companies supply the pipe for the gas companies? A. Offhand, I don't know that detail.

XQ. Do you know whether or not these companies would be purchasing pipe for the gas companies, from the same company that they purchased steel for the electric companies? A. Yes, sir.

XQ. Which companies would they be? A. Well, again, I mean, I said I don't know what companies specifically they have made purchases with. While I do know that in my study of the service company, [1981] steel purchases for both electric and gas requirements, were made from the same steel company. Now, they don't purchase from the same steel company all the time, either.

XQ. Well, isn't it a fact, Mr. Simes, that the purchasing of steel by the electric company and the purchase of pipe by the gas companies, from a common source, is something that, if it does occur, occurs so rarely in connection with each other, that there are few if any material benefits for the gas company derived from that arrangement? A. I cannot agree with that. I know from my own past experience that when we purchased pipe, we would purchase it from Bethlehem Steel; National Steel; U.S. Steel; any number of these companies, which are the same companies that supply the steel for the electric generating stations, so it certainly makes sense to me, when a buyer is prepared to purchase a certain quantity of steel requirements in the form of pipe for the gas companies, steel requirements for the electric companies, that he has this whole bulk quantity in his hand when he goes to talk to these various suppliers, or when they come to talk to him.

XQ. Do you mean that the companies get a discount then from the steel company by virtue of the larger quantities of materials purchased? A. Well, that detail, I am not sure of, but it [1982] certainly, as I have stated before, it makes sense to me that you can get certain advantages and that is as far as I would carry it; in the form of when you need something quickly, if you are a big purchaser, you

are going to get action from the supplier. If you need something right now, or in the case when material is difficult to obtain, you are going to get preference because you are a big buyer.

This is natural.

XQ. You cannot reduce that to any dollar value? A. I did not attempt to, in my report.

XQ. In the course of any given year, do you know about how much is spent by the gas companies for pipe and how much is spent by the electric companies for steel? A. I would say in general—well, I have a figure. The total construction materials purchased—now, just purely construction materials—which would include steel; I don't have it broken down just in steel or pipe,—was approximately \$15 million in 1958.

On your combination gas and electric, of that \$15 million, approximately \$1,200,000 was gas material—construction material.

XQ. And do you have any idea how much of that construction material of the gas company is applied to pipe?

[1983] XQ. Do you mean to imply, Mr. Simes, that if the gas companies were severed from the NEES system, were now operating on a combined independent basis, that they would have to pay more for that pipe than they would on the present arrangements? A. As I said before, Mr. Nowlin, it is impossible for me—if I could have made an estimate of the dollars, I would have included it in this.

I say there are advantages which I have just enumerated, some of them.

Now, they would not have those advantages as small purchasers.

XQ. How important are those advantages, Mr. Simes, when you look at the large figure of \$30 million and we find most of that is for electric purchasers.

How important is that arrangement for the gas com-

panies? A. Mr. Nowlin, at the time that you need material, this is extremely important. Again, going back to my own experience in this thing, when we were attempting to build an L.P. air plant, which requires the bottle storage, this was a small operating company. We had the very devil of a time getting this material.

Now, there is a distinct advantage. We attempted [1984] to contact all the fabricators of steel who made—

XQ. What year was that? A. My recollection is that it was back around, somewhere between '55 and '57.

XQ. Was that not during the period, Mr. Simes, that all of the gas companies and all electric companies were having a tremendously difficult time of getting pipeline supplies? A. That is exactly my point. The advantage to the NEES system is that at a time when they are scarce, the big buyer is going to get the best break.

XQ. Now, let me ask you—I happen to be a little familiar with the situation of the gas companies. That was the aftermath of the post-war situation, was it not? A. In '55 to '57?

XQ. '50 and '55. A. Here, I am going back in memory, but I think it is probably more the aftermath of—again, I am depending on memory. I think it was a steel strike at that time, or a threatened one.

XQ. Do you know how often those emergency situations have arisen in the past twenty years? A. That particular type, no. There have been others, too.

XQ. Isn't that an unusual situation, then? [1985] A. Certainly not. A steel strike—that is not unusual.

XQ. Well now, frankly— A. You tied this to the war. I did not.

XQ. I am talking about the aftermath of the war, before the steel companies got back into the ability to service the demands. Practically all of these natural gas companies were having a terrific time, for a period of five, six, seven,

eight years. A. You are speaking of the late '40s. I am speaking of '55; '57.

Hearing Examiner: How much more cross examination?

Mr. Nowlin: We have another day and a half, on this witness.

Hearing Examiner: Let us recess until 1:30.

(Whereupon, at 12:30 o'clock, p.m., the hearing was recessed until 1:30 o'clock, p.m., on the same day.)

AFTERNOON SESSION

(1:30 p. m.)

[1986] Hearing Examiner: Let us come to order.

Whereupon,

JAMES F. SIMES

resumed the stand and testified further as follows:

Cross-Examination-Resumed

By Mr. Nowlin:

XQ. Mr. Simes, during the course of your examination this morning we were questioning you about the difference between the figure \$188,200 and \$205,900, as reflected on page 2 of Respondent's Exhibit No. 105. Now, your explanations have been more or less in general accounting terms and we are having difficulty understanding them. I would like to direct your attention to Respondent's Exhibit 106, which gives a detailed explanation of the difference between \$1,300 and \$10,700 in the case of Norwood in respect to the executive-administrative staff. I would like to request you to supply a similar detailed explanation in writing of the difference between the \$188,200 figure and the \$205,900 figure shown on page 2 of Exhibit 105. A. Yes, sir.

Mr. Vorenberg: Mr. Examiner, I have made this re-

quest before and I will repeat it again, that where Mr. Nowlin is asking additional work or studies or, in this case, accounting matters be undertaken by someone in the NEES group [1987] that it would be preferable from our point of view if he would direct that question to us, direct that request to us.

Mr. Nowlin: Then I will make the request of counsel for respondent that is reflected on the record.

Hearing Examiner: Read Mr. Nowlin's last remarks.

(Question read by reporter.)

Hearing Examiner: I understand, Mr. Vorenberg, that you will supply that information.

Mr. Vorenberg: Yes, sir.

Hearing Examiner: Very well.

By Mr. Nowlin:

XQ. Now just prior to the luncheon recess, Mr. Simes, you had mentioned one item—I think it was steel—which you thought, the joint purchase of steel and so forth, was an advantage to the gas company; is that correct? A. Yes, sir.

XQ. Now, could you point to any other particular item that would be equally applicable? A. Well, as I have stated before, Mr. Nowlin, in the whole area of purchasing there would be advantages to bulk purchasing through the present service company purchasing agents to the gas companies. Now you asked for some specific examples. I think one of the ones I mentioned was steel; another one was in the case of compressors and, furthermore, [1988] of the total estimate of construction materials for the gas companies, I think I mentioned the figure of a million, two hundred thousand, and about a million of it is in the steel category.

XQ. I think you explained this morning what you meant by compressors for gas. What do you mean by compressors for electricity? A. Well, in electric generating stations

you require compressors in conjunction with your boiler plants and compressors of various types.

XQ. Are you talking about air compressors, Mr. Simes?

A. Well, I wasn't speaking of that specifically; I was speaking of the general category of pumps, of forced air draft fans, the type of equipment that is made by the manufacturers that I mentioned earlier, such as Ingersoll, Rand, Allis Chalmers.

XQ. For the present time let's just stick to the compressors used in electric companies. What kind of compressors and for what purpose do you have for electric companies? A. I just mentioned some. I said in the general area of pumping equipment, which is made by these manufacturers.

XQ. A pump is not a compressor. A. Well, it is of the same general nature. My point was that the manufacturers such as I mentioned before manufacture [1989] the type of equipment that is used both in electric and gas.

XQ. You mean the manufacturers who manufacture gas compressors also manufacture pumps that are used for electric purposes? A. Yes.

XQ. Now, which manufacturers does NEES purchase compressors for gas and pumps for electric that are jointly purchased or jointly manufactured? A. Well, I am sorry, I don't recall that detail as to which vendors they use. As I did mention before, they go out into the market for this type of equipment; they contact all of the manufacturers of this type of equipment.

XQ. Well, how about the purchase of gas meters and electric meters? Are they made by the same manufacturer?

A. To my knowledge—I can't recall any gas meter manufacturers who make electric meters, no, sir.

XQ. So that the joint purchasing arrangement then wouldn't be of any benefit with respect to the purchase of the gas meters, would it? A. No, I can't see any in that

specific area that we were discussing of going to a common manufacturer. You realize, of course, that the meters are a relatively small proportion of the total construction expenditures of the gas company.

XQ. Do you know what proportion? [1990] A. Well, I don't know specifically in any given year, but I would say it is less than ten per cent.

XQ. Are you talking about the electric company or gas? A. No, sir, the gas.

XQ. You were talking about the purchase of pipe for the gas company. What kind of pipe is generally used by the eight gas companies in their operating territories—cast iron or steel? A. Well, all new construction is steel.

XQ. You mean that is for the main transmission lines? A. No, for their distribution lines.

XQ. Even the takeoff from the street connecting into the house, are those steel? A. Steel services, yes, sir.

XQ. Well, is there is very little cast iron pipe purchased for use by the gas company? A. For new construction, I would say none at all. There would be some possibly purchased for minor maintenance.

XQ. Are there any other joint purchases that might be beneficial or advantageous to the gas companies that you haven't named? A. Well, certainly in the entire area of fuel. As I mentioned before, when you purchase oil for your oil gas plants, you are buying it from the same supplier that you are purchasing oil for your electric generating stations.

[1991] XQ. Do the electric generating stations in the NEES system use oil? A. Some of them do.

XQ. Do you know how many? A. No, sir, I don't know how many.

XQ. Isn't it a fact, Mr. Simes, most of them use coal?

Mr. Vorenberg: What year are you speaking about, Mr. Nowlin?

Mr. Nowlin: About 1958.

The Witness: I would say that most of the fuel used is coal.

By Mr. Nowlin:

XQ. So that there would be very little advantage in joint purchasing of oil; is that correct? A. Oh, certainly.

XQ. Have you made any estimate of how much the gas companies save under their present arrangements for joint purchase of equipment? A. No, sir. I stated earlier that it is almost impossible to determine it in the question of dollars. If I had been able to determine that, I would have included it as a loss of economy, that's for sure.

XQ. Mr. Simes, whatever losses of economies that may occur with the severance of the gas companies with respect [1992] to the purchase of steel or anything else for construction, wouldn't those losses be capitalized as part of the prime account and not reflected as an operating expense? A. Insofar as you are talking about a variation in price for materials, for construction materials, that is correct. In general, most of the construction material you purchase would be capitalized. There are some materials that would, of course, find their way into maintenance expense and the fuel that we were talking about before is all an operating expense.

XQ. Turning to Exhibit 91, page 40, can you tell us what portion of the claim \$1,165,600 of increased expenses on the pro forma eight companies combined basis represent costs for executive and other services designed to replace the services theretofore rendered by the service company? A. Mr. Nowlin, a direct answer to your question is impossible. As I mentioned to you this morning, the establishment of the central organization of this combined operation, the establishment of the executive and administrative staffs of the companies within the combined group, were

established solely on the basis of what was needed to perform the functions necessary to carry on a gas operating company. Now, I don't see how it is possible to answer your question in terms of dollars.

XQ. On page 40 of Exhibit 91, under combined eight [1993] gas companies you show a decrease of \$2,500 in transportation costs. Is that decrease of \$2,500 less than actual, as I understand it? Is that correct? A. That is correct.

XQ. Does this mean that no transportation economies can be effected on a combined company basis as against an independent company basis? A. If I understand your question, Mr. Nowlin, could there be any or does this mean that there are no economies between combined operation and independent operation in this particular item of transportation.

XQ. That is right. A. That \$2,500 which is shown as a reduction from the actual can be best explained, I believe, through the use of the tables in Exhibit 105.

XQ. We are not interested in the actual, Mr. Simes; what we are attempting to ascertain here is why no economies can be effectuated as between the eight independent company operations and the eight company combined operations. A. Well, I was going to explain that there are and that the \$2,500 again is a net figure of several items. For example, in the case of the central organization, we required seven vehicles, whereas under the independent operation that was a reduction of four vehicles, a reduction of four vehicles from what was required by the eight independent companies. [1994] Now, that effect, which is approximately \$6,500, was taken care of in the overall figure of the miscellaneous item that we mentioned on page 38, I believe it was, of \$25,000.

Now it says here that this would include expense in connection with the special holder and gas plant mainten-

ance service and a net reduction in the total cost of transportation equipment.

XQ. The reference you have just made to page 38 is in general language. Could you give us any figures to show why there is no difference in the transportation costs of the eight gas companies independent and the eight gas companies combined. A. In the case of combined operation, we have reduced the number of vehicles, passenger cars, required by four in going from independent operation to combined operation. The net effect of this reduction is a reduction of \$6,500. Now, that was included in the \$25,000 mentioned on page 38. The \$2,500 figure that you are looking at, which I think is giving you a problem, is the result of the servicing of cars between Worcester and Central Mass. and the servicing of cars between Suburban and Mystic under the actual operation. Now, under both independent operations, as far as Central Mass. is concerned and so far as Mystic Valley is concerned, that \$2,500 remains exactly—the \$2,500 reduction remains the same for both cases. This was, as I said before, in [1995] servicing vehicles by Worcester for Central Mass. and not only the servicing of vehicles, but joint use of some vehicles and the same situation in case of Mystic Valley and Suburban Electric.

XQ. Now, on page 1411 of the transcript you testified to the effect that one of the guides used in setting up the pro forma executive and administrative staffs of the NEES gas companies on a combined basis was the organization of other similar gas companies. Is that an accurate summary of your testimony? A. As a guide, yes. That is correct.

XQ. Will you please identify these companies referred to?

Mr. Vorenberg: I don't think you quoted directly from that portion of the transcript, Mr. Nowlin.

Mr. Nowlin: I didn't quote.

Mr. Vorenberg: I think you put two sentences together and it makes a difference.

Mr. Nowlin: I asked if this was a fair statement of it and he said yes.

Mr. Vorenberg: The transcript speaks for itself.

Mr. Nowlin: Do you disagree with your witness?

Mr. Vorenberg: I think the witness accepted at face value what you offer as a quotation.

Hearing Examiner: What is the quotation?
[1996] Read the question.

Mr. Nowlin: Well, here is what it says: "Of course, one of the helpful guides in making this determination was the present method of operation of these companies. We also considered the organization of other similar gas companies, which, like the present organization of this company, served as a check or a test for our conclusions as to what might be necessary in different areas, subject in each case to molding the organization to the particular situations of the North Shore, as if it were operating on an independent basis."

Hearing Examiner: Is your answer the same that you gave, Mr. Simes?

Mr. Nowlin: The witness didn't have any trouble with the question.

The Witness: I said as a guide, yes.

Mr. Nowlin: His counsel does have trouble with the question.

Hearing Examiner: Well, I think we are over that trouble now. Let's pass to something else.

Mr. Nowlin: I asked him to identify these companies.

The Witness: Well, again bearing in mind that this was used solely as a guide after the determination had been made, naturally I looked at the organizations of some of the Massachusetts gas companies and what I had

in mind was the organization of various companies which I know throughout the [1997] country.

By Mr. Nowlin:

XQ. What are the names of these companies, Mr. Simes?

A. In the case of the State of Massachusetts, we examined the Berkshire Gas Company, the Fall River Gas Company, the Haverhill Gas Company, which, incidentally, are the only independent gas companies. We examined the American Business Associates group, which includes Lowell Gas and Buzzards Bay, took a look at the Teney group, which is Brockton-Taunton, Fitchburg, Springfield Gas.

XQ. How did the staffs of these companies you just named compare with those projected by you for NEES companies on a combined basis? A. I would say that in general the comparison was fairly similar. The only difference might be in titles or something of that sort, but after all, again, Mr. Nowlin, you are staffing a gas company to provide certain functions and they are going to require certain staff people.

XQ. As I understand it, you used these comparisons as a guide and we would also like to have these comparisons for our information to check the validity of your conclusions. Did you reduce your study of these other gas companies to writing? A. So far as the executive and administrative staff was concerned, I think it is well known that this information [1998] can be obtained right from the reports of the Department of Public Utilities. Now, there is one thing I want to straighten out. You came back again and said it was used as a guide and I am trying—Would you find the page you refer to?

Mr. Vorenberg: 1411.

The Witness: 1411. "One of the helpful guides in making this determination" and I am quoting "was the present methods of operations of these companies. We also considered—"I am not going to repeat this because

it has already been read into the record once before. It served as a check or test.

By Mr. Nowlin:

XQ. That is what you mean when you said "We also considered the organization of other similar gas companies", that you used those— A. Which served as a check or a test.

XQ. Well, is it unfair then to say that this was one of the guides used? A. Well, I think there is a difference of connotation in what you are saying. The word "guide", if you are starting out on a trip you have a guide or a road map. This is not the case. This is after the fact. This is a normal thing that you do in any kind of consulting job—you find a test.

XQ. I am not trying to impute something to you that you [1999] didn't do. A. Well, you are putting emphasis on "guide".

XQ. Well, I will use the word "consider" then, if that will help make you happy. A. A check or a test after the organization had been staffed.

XQ. What are the figures, Mr. Simes, that you found in the Berkshire, Fall River, Haverhill companies that persuaded you that your estimates were not out of line? A. Well, for example, in the case of Fall River Gas Company, which has or did have in 1958 34,212 customers, the salary of the President is \$20,800. In companies of the NEES System of comparable size, North Shore, 33,113, Lawrence Gas Company, 32,801 customers, the salaries that we pro formed there was \$21,000 for the president. Now, there again I wish to emphasize that we did this and then went back to look at the various companies to see if we could find a company that was of comparable size, somewhat similar situation, but it was not the guide, it was the test after the fact.

XQ. Did you make any check or comparison of the total

executive-administrative cost of these three gas companies with that projected by you for the NEES gas companies?

A. Yes, where we were able to obtain the information, we did try to make a test against that.

XQ. Could you give us those figures for the three [2000] companies? A. In the case of Berkshire Gas Company—I think I would, rather than call E&A, I would rather specify the type we are talking about, and I will also say that this is, in general, because some titles do not apply to certain companies, but the list is Chairman of the Board, President, Vice President and General Manager, Vice President, Vice President, Vice President and General Superintendent, Treasurer, Clerk and Assistant Treasurer, Assistant Clerk, Clerk.

Now, again, I say all those titles do not apply to all companies, but this is the area that if you ask me if I have tried to look at total E&A, this would be the group I would be speaking of. In the case of Berkshire Gas Company, \$94,500; in the case of Fall River Gas Company, \$52,500; in the case of Haverhill Gas Company, \$32,400, and I would like to add to that Haverhill Gas Company, in my understanding in talking to some of these people, they used an outside consulting firm which supplies them with management services which takes some of the E&A costs.

XQ. You don't know what that is? A. I don't know what that figure is, no, sir. In the case of American Business Associates, the two companies under their leadership—Buzzards Bay and Lowell Gas Company—they have a total of 37,902 customers and the total E&A expense was \$90,400, again in the case of the titles that I [2001] mentioned before.

XQ. Now, at page 7 of Respondent's Exhibit 91, there is reflected a projection of your recommendations for the executive and administrative portion of the Ebasco report, isn't there? A. Yes, sir.

XQ. I notice there that the salary for the President is fixed at \$40,000. A. That is correct.

XQ. How does that compare with the salary of the President of the present Gas Division? A. My recollection is that at that time the President of the Gas Division or, rather, the President of the eight companies was something on the order of twenty-five or twenty-six thousand dollars.

XQ. And that salary is somewhat in line with the salary of these other three Massachusetts companies which you read awhile ago, wasn't it? A. Somewhat in line.

XQ. I think you mentioned the figure of \$20,000 for one company and \$24,000 for another company and I forget the other figures. A. Well, when you say in line, there is no basis for comparison here whatsoever.

XQ. Well, at least in dollar amounts they are pretty [2002] much the same, aren't they? A. No, sir, there is no comparison whatsoever.

XQ. No comparison in dollar amounts? A. Well, you can't compare the dollars unless you know what you are buying with the dollars.

XQ. I didn't ask you that question; I just compared the dollar amounts. A. I would like to make it clear that so far as the dollars are concerned, you cannot compare the salaries of the President of a 33,000 account company with the salary of a president of a company who has available to him all of the executive staff, talent, ability of the NEES System. He is not responsible for the financing which some president of one of these other companies might be. For example, there are other things that the president of the eight gas companies in the NEES System is not responsible for when we move from the NEES System to the combined operation, where you have got a president who is going to be wholly, fully responsible for the operation of a 240,000 customer company. He has full responsibility for going out and getting the money to run this

company; he has full responsibility for every single detail of that operation and, if anything, I think that \$40,000 is understated that we have on page 7 of Exhibit 92.

XQ. You say about going out and getting the money. What is the Treasurer of this company going to do? [2003]

A. The Treasurer of the company is the man who makes the studies to determine how we are going to get the money, but the President is the man who has got to go out and get it.

XQ. Doesn't Mr. Hanson at the present time, who is not President of the NEES System, get the money for the NEES gas companies? A. I am not familiar with what Mr. Hanson does, I am sorry to say.

XQ. Did you also project the Executive Vice President at \$25,000 a year? A. That is correct.

XQ. And three additional vice presidents; is that correct? A. Yes, sir.

XQ. Now, if you have a well qualified President and an able compliment of three vice presidents, why do you need an Executive Vice President? A. Mr. Nowlin, there are any number of companies who have, who are smaller than the 250,000 customer company, who have an Executive Vice President and, secondly, I would like to call your attention to the fact that when I was mentioning some of these Massachusetts gas companies before, there was a Chairman of the Board who takes considerable responsibility away from the President. Now you have to look at these two [2004] things together. The Executive Vice President, as I visualized it in putting it into the staff was to be the actual supervisor, to use ordinary language, of the rest of the organization. The three vice presidents would be reporting to him.

XQ. Well, it is a little difficult for me to perceive why you need an Executive Vice President supervising the work of three competent vice presidents. A. You need the

funnel, Mr. Nowlin, and the Executive Vice President acts both as a buffer in some cases and as a funnel for information to the President. Now the President of a 250,000 account company is going to be a pretty busy man.

XQ. Well, I was just going to ask you if the Executive Vice President and these three vice presidents were performing their function, what is there left for the President to do? A. Is that a facetious question?

XQ. No, it is an honest question. The fact that you have an Executive Vice President of a company doesn't justify their existence. There are many offices that exist in a corporation, but there is no justification for the salary as far as the work is concerned. I am asking you on that basis. Is that the case here? A. No, sir, that is not the case. In this instance, and we have gone down on page 3 of Exhibit 91 to the extent [2005] of outlining in general what the functions and duties of these various executive officers would be.

XQ. That is part of the information that caused me to pose these questions, because I have difficulty there in seeing, if the executive vice president and the three vice presidents actually perform the functions as they are listed there, I have difficulty in seeing what is left for the President to do except to preside over Board meetings.

Hearing Examiner: What is your question now? You are arguing with the witness.

Mr. Nowlin: I am not arguing; I am just explaining my point.

Hearing Examiner: Well, that is arguing, I would say. By Mr. Nowlin:

XQ. Now, on page 9 of the exhibit you have a Treasurer and an Assistant Treasurer and a Treasurer Supervisor and three Treasurer Assistants. A. On page 9?

XQ. It is on page 9. Page 9 is the Treasurer Supervisor and Treasurer Assistants and on page—I guess it is

7—you have the Treasurer and Assistant Treasurer. Now, can you explain the need for what appears to be a duplication of services in this respect? A. Well, I see no duplication of services. So far [2006] as the Treasurer staff is concerned, this is the group that is doing the day in and day out work of preparing reports, of making analyses which are required by the Treasurer or the President and, as a matter of fact, on page 9 we specify the general duties of the three Treasurer Assistants, one in the area of taxes, another in the area of insurance and a third in the area of corporate accounting.

XQ. Now, I think you also have a Sales Manager set up here on page 7, don't you? A. That is correct, sir.

XQ. Now, at the present time isn't Mr. Dalbeck running all of the functions of these gas companies, except those supervisory functions supplied by the service company, including the sales? A. He is in charge of sales, yes, sir.

XQ. So what you have done here is substituted several top executives to perform the functions now rendered by the service company; isn't that correct? A. In some instances—Again let's go back. As I said, we have staffed these for what we believe are required to carry out the functions of a gas company and in the case of the President, in the case of the Treasurer, in the case of the General Counsel, of the top executive and administrative group, a good deal of the services which they will be required to perform are presently performed by executives of NEES and [2007] the service company.

XQ. Well, I would raise no question about the General Counsel. I assume you need a lawyer anyway. A. I thank you for that concession.

XQ. Now, directing your attention again to page 40 of Exhibit 91, you show an increase of \$101,300 for the eight gas companies combined for miscellaneous expenses. Does this increase include without change the \$75,900 increase

shown under independent company operations? A. M. I have that question again?

(Question read by reporter.)

The Witness: Without going through all of the specific items that are involved in those miscellaneous and depending primarily on my memory, the bulk of the charge is due to the changing from independent operation to combined operation and the formation of the central organization for which there was miscellaneous charges. Not in any specific instance, I would say in general the miscellaneous charges under the independent operation for local companies are found in the local organization and those charges were still, those increases in miscellaneous costs were still required under the combined operation.

By Mr. Nowlin:

XQ. You carried those over to the \$101,300 figure?

A. After we examined each one, yes, sir.

[2008] XQ. Then, as I understand it, the difference of \$25,400 shown on page 40 applies exclusively to the central organization; is that correct? A. No, I didn't say exclusively; I said in general the bulk of it applies to the central organization.

XQ. Will you look at page 447, Exhibit 58?

Hearing Examiner: Just a moment. We are going to change reporters.

[2009] By Mr. Nowlin:

XQ. I note on page 447, miscellaneous operating expenses for Mystic of \$32,900. Do you find that figure?

This is discussed in detail on page 445 with regard to the first item relating to telephone service. A. Yes.

XQ. What was the total joint telephone cost of Mystic and Suburban for 1958? A. What was the total joint

XQ. Telephone cost. A. I don't have that figure available. As it states here on page 445, the charges

Suburban to Mystic for telephone service in 1958 amounted to \$26,000.

XQ. Do you know on what basis this joint cost was allocated as between the two companies? A. Primarily on the basis of instruments used by Mystic Valley personnel or in the case of people whose work was a joint operation, a portion of it was charged to Mystic Valley. Here again it is primarily based on the telephone equipment used, extensions, telephone instruments and so on.

XQ. Assuming that Mystic and Suburban were to continue joint occupation of the office building at Malden after severance, couldn't the present joint telephone service be continued? A. I want to make sure I get your premise. If the gas companies were severed and continued to use the same quarters [2010] would the telephone—

XQ. Would the present telephone— A. —facilities be jointly used?

XQ. Be continued as it is. A. I can't accept the first premise. I have no basis for it. We in our setting up of the independent organization provided separate quarters. We did not anticipate that they would be able to stay in the same quarters as the electric company.

XQ. We are going to get around to that afterwards. A. I am sure you will.

XQ. I was asking you if you take these assumptions if they were to stay together and they were severed, there wouldn't be any change in the present arrangement, would there? A. Yes, I think that you would probably have to make some very definite changes. You certainly under independent operation—

XQ. I am talking about the combined operations now. A. But I meant under severed conditions, even for the sake of discussion, for the sake of argument, allowing the fact that they would be using the same quarters, which is so far-fetched in my mind I haven't even—well, you

have got certain areas there where you just wouldn't conceive of the thing going through the same switchboard, for example. This is included in the equipment that I was mentioning before.

[2011] XQ. Now, if these two companies stay together under joint common control, if they occupy the same building. A. Mystic Valley gas and the electric company.

XQ. It is your opinion then that if there was a severance that the present joint telephone arrangement would not continue even though they continued to occupy the same building? A. That is right, sir.

XQ. Now, the next paragraph on page 445, mention is made of IBM equipment. What is meant by the expression "rented jointly"? A. The IBM punch card equipment that was used in Malden for joint billing purposes, I believe, was rented from IBM. Now, the statement "rented jointly" means that a portion of the rent was paid by the participating companies in this IBM punch card system.

XQ. Do you know what the total rentals paid to IBM were for the machine? A. No, I do not.

XQ. Do you know how it was allocated between the two companies?

Mr. Vorenberg: Are you asking for the specific amounts or the methods we used?

Mr. Nowlin: I asked him the amounts and he said he didn't know. Then I asked how the costs were allocated.

Mr. Vorenberg: Are you asking the dollar amounts [2012] that were allocated or the types of units he used?

Mr. Nowlin: I am asking for the methods.

The Witness: My recollection, Mr. Nowlin, is that the allocation of the rental of the IBM equipment was based on a pro rata share either the number of customers or the number of bills, I am not sure which.

By Mr. Nowlin:

XQ. Do you know whether the total rentals paid by these two companies is designed to amortize the cost of that machine over a period of years? A. The rental charge for the equipment that the manufacture—IBM, Remington Rand, and the rest of the companies that provide this type of punch card equipment—is on a rental basis, and they set up their rental charges in order for them to recover the cost of the equipment over a period of time. So far as the rental that is actually billed to the companies they receive it as a rental charge by each individual type of equipment right from the key punch on up.

XQ. Did you make any analysis or study of this particular cost to determine whether it would be more economical for the companies to purchase the machine rather than to rent it? A. To my knowledge, in the case of IBM you cannot purchase the equipment.

[2013] XQ. Did you reach any conclusion, Mr. Simes, as to whether the allocations of the rentals paid for IBM machines was fairly allocated as between the two companies? A. The rental charges of the equipment itself you are speaking of?

XQ. Yes. A. I went over the allocations and determined what the basis was. That is why I was having a difficult time trying to remember previously when you asked me this question. At the time I had to satisfy myself that the allocations, not only of the rental equipment, but also of the space which it occupied, was allocated properly. This determination I did make.

Mr. Nowlin: Now, Mr. Examiner, I would like to request of counsel for the respondents that he supply us with the details of these costs and the methods of allocating these costs.

Mr. Vorenberg: The bill machines at Mystic?

Mr. Nowlin: Yes, sir, and also the Suburban.

By Mr. Nowlin:

XQ. Now, Mr. Simes, will you explain this whole paragraph regarding the IBM punch card equipment particularly with regard to the arrangements for cross billing? It is not clear to us what is intended to be portrayed there.

Mr. Vorenberg: Would you read the question for us?

(The pending question was read by the reporter.)

[2014] The Witness: Is there any particular part that you want?

By Mr. Nowlin:

XQ. The cross billings is the one thing that caused us some difficulty. A. Well, for example, as it states here, all customer bills of North Shore Gas Company were processed on this equipment for which service North Shore paid \$5900 to Mystic during 1958."

XQ. Well, if the machine rentals was allocated on a fair basis to begin with, what is the reason for the cross billing between Mystic and Suburban? A. Again, I cannot recall the details of this apportionment of cost, rental cost, between Suburban and Mystic, but I believe that the information that you have recently requested us to supply would have that detail in it.

XQ. Well, would you include that detail in the information we requested?

Mr. Vorenberg: Yes.

By Mr. Nowlin:

XQ. What effect would the combined operation of the eight companies have upon the situation described in the third paragraph regarding IBM punch card equipment? A. In the combined operation of the eight gas companies we envisage that Mystic Valley Gas Company would continue to [2015] operate its IBM System in the same way that we provided for under the independent operation. So in answer to your question, the change here as discussed in this paragraph on page 445 is shown in dollars on page

447, machine accounting, an increase of \$13,400 in operating expenses and \$100 in payroll taxes, and that would be exactly the same in the combined operation. It would be the same equipment, the same set-up.

XQ. Now, in your projected cost for the eight companies combined did you assume that Mystic and North Shore would pay the full rental cost of this machinery even though Suburban was no longer making use of it? In other words, would Mystic and North Shore be paying a rental cost for a machine that was not devoted to full use? A. No. I believe, as Mr. Johnson testified earlier, we set up a new set of equipment for operation of the Mystic Valley operation under independent operation, independent cooperation. The overall rental cost is actually less.

XQ. But you abandon in your independent study in the combined study the present arrangement for using the IBM punch card equipment? A. No, sir. Going from actual to independent operation we provided for an IBM punch card system in Mystic Valley to do its billing. In going from independent to combined operation we kept the same equipment that was required under independent operation.

[2016] XQ. Well, why does Mystic incur an additional rental expense of \$11,000 as reflected on page 445? A. This is due to losing the economy of joint operation.

XQ. With whom, Suburban? A. Yes, sir, and even North Shore in there.

XQ. Mystic was paying its fair share of the rental cost of this machine on an actual basis. Why couldn't it continue to rent the same machine at the same rental? A. Well, first of all, I think that Mr. Johnson explained this in some detail yesterday, but I think there is probably a misunderstanding on your part. Where you have joint operation of certain types of equipment, naturally the cost spread over a greater number of customers is going

to be less. Now, when we set up a system to do the billing for Mystic Valley, there are certain units of equipment that have got to be available to do the job, but they will not be turning out as many bills as previously.

XQ. Will you be using the same machines? A. No. Actually in setting up the Mystic Valley IBM rental equipment we changed the equipment. We reduced the amount of equipment necessary, but the overall total cost of the rental of this reduced number of pieces of equipment is still greater than a pro rata share of more equipment.

Mr. Nowlin: May we go off the record just a moment, Mr. Examiner?

[2017] Hearing Examiner: Yes, we will go off the record.

(Discussion off the record)

By Mr. Nowlin:

XQ. We are still on page 445, Mr. Simes. Will you explain the paragraph there relating to the service school, and tell us whether the combined operation would have any effect on the situation? A. In the present system under the gas division there is a service school for training utilization and customer service men. In fact, I don't think that is its only function. It is quite a broad educational process for the employees in the utilization and distribution. The cost of that service school was spread among the eight gas companies. Now, under combined operation we have put the service school back into existence.

XQ. And are the costs of running that service school allocated among the eight companies? A. Yes, sir.

XQ. Now, will you drop down to the next paragraph regarding transportation of the gas division, and explain that one? A. The transportation costs of the gas division in going out in performance of their duties to the various companies—that is gas division personnel—going out to perform their duties in the companies, such as Central

Massachusetts, all of the eight gas companies, is chargeable directly to the companies for whom they are doing a particular job.

[2018] In the case of Mystic Valley we decided that it was the only company of such size to warrant a service school, which is the reference here in the last sentence, whereas they shared in the cost of that school in 1958 with the eight other gas companies.

On the air conditioning expense I don't recall just exactly where that was.

XQ. Do you know whether or not the Gas Division has air conditioning expenses that are allocated out to the other gas companies? A. Air conditioning expenses?

XQ. The \$1200 item shown here in the paragraph?
A. What was the question again.

Mr. Nowlin: Read the question.

(The pending question was read by the reporter.)

The Witness: No, sir.

Hearing Examiner: You don't know?

The Witness: No, they are not all allocated out to the other companies.

By Mr. Nowlin:

XQ. Do you know what this air conditioning expense of \$1200 is? A. Well, as I mentioned before, I do not recall just what that particular air conditioning expense of \$1200 is.

XQ. Now, at the top of page 446 will you explain the [2019] estimated \$135,000 of cost for furniture and so forth, which gives rise to the annual depreciation item of \$7,000? A. This is primarily cost of additional desk requirements, tables, chairs, office furniture and equipment, that Mystic Valley would require under independent operation, a total of \$115,000 approximately for office furniture, and another approximately \$19,000 for garage equipment,

to bring us through a total of \$135,000 for which annual depreciation was taken at \$7,000.

XQ. Doesn't Mystic own its own office equipment that it is using? A. We are providing additional staff. Under independent operation we have increased the executive and administrative personnel. We have lost the use of joint—in fact, this office furniture and equipment applies to all of the additional personnel that are required for all of the functions.

XQ. Of Mystic? A. Yes, of Mystic alone.

XQ. Does any portion of this \$135,000 represent the loss of joint services? A. Well, where you had one employee working jointly for Suburban and Mystic and he had to be replaced by an employee for Mystic in new quarters, he is going to require a desk, and this is in line with all of the personnel changes that we have made under independent operation.

[2020] XQ. What desk was he using before the proposed severance? A. If it was Suburban's desk, that stayed with Suburban. If it was a desk owned by Mystic Valley, we took that over. What I am speaking of, the \$135,000 is additional office furniture and equipment required by the increased personnel.

Hearing Examiner: Mr. Nowlin, has the value of a desk any real significance in a proposition of this sort?

Mr. Nowlin: It certainly does.

Hearing Examiner: I can't see it.

Mr. Nowlin: \$135,000 is a big item.

Hearing Examiner: We were talking about one desk, and awhile back we were talking about an item of \$1200.

Mr. Nowlin: It isn't the item, Mr. Examiner; it is the testing of the validity of these projections that we are after.

Hearing Examiner: All right. Go ahead.

Mr. Nowlin: These are used as examples of several other items that are questioned.

By Mr. Nowlin:

XQ. Dropping down to the next paragraph relating to cross billings. Can you tell us what these cross billings are and how they arise?

Mr. Vorenberg: You are talking about the second full paragraph?

Mr. Nowlin: Yes.

[2021] The Witness: This in the case of display expense is to the amount of \$1,700.

By Mr. Nowlin:

XQ. No, Mr. Simes, I am down to the next paragraph, "The billings covering miscellaneous services of personnel in 1958 was not eliminated." Do you find that. I want to know about the cross billings and how they arise.

Mr. Quarles: Could we have a brief recess at this point?

Hearing Examiner: Yes, we will have a short recess.
(Whereupon, a short recess was taken.)

Hearing Examiner: Let us come to order.

Mr. Nowlin: Would you read the question, please?

(The pending question was read by the reporter.)

The Witness: These miscellaneous services of personnel are a combination of many, many small items which are billed by one company to another company for services which an employee on its payroll may do for one of the other companies. Now, this is common practice in combined electric-gas operations. If you have a particular individual in the gas department who happens to be available or knows something of a special nature which is for the moment required by the electric department, they don't have someone sent up to do that. They will borrow him from the gas department.

Another thing that occurs to me is the question of

[2022] in time of emergency you will use your people if there is an emergency in the electric system, you will use your gas people, if necessary, or vice versa. This is the nature of this type of cross billing, where they are primarily services of personnel.

XQ. Were these cross billing costs carried over into the combined eight company operations? A. No, sir, they have been eliminated.

XQ. Now, will you turn to Respondent's Exhibit 105 and the supplementary Schedule No. 6, the miscellaneous item reflected thereunder aggregating a total of \$25,300 for operating expenses. Can you tell us what this holder and gas plant maintenance service item of \$10,000 covers?

A. The holder and gas plant maintenance service is of the nature of that provided for, as I mentioned previously, by the construction division of the service company. We did think that in independent operation there is a need for it, but we didn't think any of the companies of themselves could afford to hire two specialized people of this nature. On the combined operation again we would be able to move them around among all eight gas companies to provide specific work on gas holders.

XQ. Now, is this \$10,000 cost intended to represent the cost of obtaining services of outside people or cost of service to the employees of the eight combined companies? A. In this instance of the holder and gas maintenance [2023] services these would be employees of the combined operation.

XQ. Do you mean by that that this \$10,000 is the estimated cost of the salaries that would be paid to employees who are not included in the combined operations? A. That are not included in the pro forma payroll, that is correct, sir.

XQ. Now, if you look at page 226 of 58-A, along in the middle of the page there, you notice meter records of the

company were maintained by personnel on the Merrimac payroll. What charge, if any, was made by Merrimac to Lawrence for this service?

Mr. Vorenberg: I believe this is the area, Mr. Nowlin, that Mr. Johnson testified in. I am not saying that Mr. Simes is unable to answer it, but I think it should be understood that this is the area which Mr. Johnson indicated was in his special field. I don't know if you asked him this particular question. I just thought I should state that.

The Witness: I am trying to recall, Mr. Nowlin, this one specific detail that you have picked out here. The meter records of the company were maintained by clerical personnel on the Merrimac payroll. Whether that was handled on the cross billing basis or whether it was handled on an off-set basis, I am not sure. I don't recall. I know that in this case, as it is stated here clearly, we had to provide additional personnel to take care of this function which [2024] previously had been done by the electric company, Merrimac in this instance.

XQ. Look at page 623 of Exhibit 58-A. I think it is the first paragraph on the production distribution there, it shows the addition of a service record clerk at a cost of \$4,700 to handle duties performed by an employee of Northampton Electric. The next paragraph also shows a thousand dollar expense for telephone service to handle calls heretofore handled by operators of the electrical company. Apparently no charges were made to Northampton Gas for these services. Why? A. Well, as I said before, in this instance, again, in this particular detail, I am not sure whether there was a cross billing from the electric company to the gas company or whether it was done on the basis of payroll offset.

XQ. If there were cross billing it would be an offset credit to this \$4,700 item, wouldn't it? A. That is correct, sir.

[2025] XQ. Will you turn to Exhibit 104, at the third page, the column under "Production". Total-independent operation, 44,600; Combined operation, \$22,500.

Can you show us in any of the exhibits prepared by Ebasco, the discussion of this particular item, and the breakdown thereof?

Mr. Vorenberg: Mr. Simes, I just raise this as a question. This seems to me to relate to a distribution of accounts in accordance with the NEES uniform system of accounting, as applied by NEES. Again, I am not sure that Mr. Simes is the best person to provide that material to you. I think we have to keep in mind the breadth of the study here and the fact that different witnesses covered different areas and what we want to do is to be as helpful as we can but I think there is an advantage in having the right information come from the right people.

Mr. Gishman: Is this figure of \$22,500—

Mr. Vorenberg: Is this off the record?

Hearing Examiner: Let him ask the question on the record. Go ahead, ask your question.

Are you directing it to Mr. Vorenberg?

Mr. Gishman: Shall I ask the question?

Hearing Examiner: Yes.

Mr. Gishman: Is this figure of \$22,500 that we have been referring to, a part of this increase of \$45,200 [2026] appearing on page 40 of Exhibit 91?

The Witness: Let me state it another way, which will answer your question.

That the \$45,200 increase in production, distribution, utilization and garage expenses that is shown on page 40 of Exhibit 91 and which is further explained on page three of Exhibit 105, did include amounts which would be chargeable to the production, distribution, utilization accounts of the uniform system of accounting of the Massachusetts DPU.

Does that answer your question? That part?

Mr. Gishman: Yes. To that extent. Can you tell us what part of this \$45,200 appearing on page three, Exhibit 105, refers to production as distinguished from the distribution, utilization, and garage?

The Witness: Yes, sir. I can tell you that. I don't know whether I have the details right here or not but since we had to build this up on that basis, the production, distribution, utilization are separate items.

Mr. Gishman: Well, would that figure that I just asked you for be this 22,500 figure that we have been looking at on Exhibit 104?

The Witness: Would which figure?

Mr. Gishman: Would the portion of this \$45,200—do you see that?

[2027] The Witness: Yes.

Mr. Gishman: I asked you whether you knew what portion of that is applicable to production and then I asked you further whether that portion would not be the \$22,500 appearing on Exhibit 104?

The Witness: Well, again, I say that the \$45,200 is made up of specific production, distribution, utilization items—the spread of this Exhibit 104—I am not particularly certain of whether or not the \$22,500 is the sole production item that is included in there or whether there may have been items spread to A & G, for example, which are included in our production, distribution, utilization.

Mr. Gishman: Thank you, Mr. Simes.

By Mr. Nowlin:

XQ. Now, directing your attention to page six of Respondent's Exhibit 105 which reflects a breakdown of professional services, can you tell me why in each case the cost for the independent audits increased pro forma as against actual? A. In reference to these independent audit figures that appear on page six, we knew from the

nature of the audit staff that we were establishing in the central organization that they would not be able to perform the extent of audit service that is provided by the service [2028] company. Therefore, just as we did in the independent company situation, we contacted independent auditors to obtain from them an estimate of what the cost would be to audit these individual companies.

XQ. Did you, therefore, assume on a separated pro forma basis, that they would need the extensive audits that are now done by the service company? A. My assumption was that, based on the audit staff which we have provided in our executive, administrative personnel, which I knew was less than what was provided by the service company for general auditing—as I said before, we requested of the outside auditors, an estimate. We gave them the outline of what we were going to do and what we were going to provide and said in that instance, will there be any change in your scope of your work over what you had in “Actual”, and these figures on page six, for each of the gas companies, including the central organization, is the result of that request.

XQ. Of your actual cost, \$12,700, who performed these audits? A. The auditing firm is Lybrand, Ross, and—Hearing Examiner: And Montgomery.

The Witness: Thank you, sir.

XQ. Now, are these costs, actual costs allocated to the gas companies as part of a larger overall cost of [2029] auditing services? A. No, this auditing firm bills each company directly.

XQ. And the costs of such audits are not based, then, on their doing an overall system audit? A. Oh, no.

XQ. Now, is the increase for Central Massachusetts on a pro forma basis over that of actual, is that due to the fact that there is less general auditing on a pro forma basis than on an actual basis? A. Well, I want to clarify the use

of the word "less general auditing". It is rather difficult to state it in that term.

The general audit under our combined operation is not as extensive. The reason I questioned the word "less" is that what they are going to audit, they are going to audit in just as much detail. It won't be as extensive as it would be under the service company.

XQ. Now, as I understand it, Lybrand, Ross and Montgomery charged \$1600 to Central Massachusetts for an audit on an actual basis. A. Yes.

XQ. You estimate that they charge \$2500 for that audit on a pro forma basis? A. Yes, sir.

XQ. Why is there that increase? [2030] A. The increase will be due to the general audit which we have provided for in our central organization, not being as extensive as the internal audit, provided by the service company.

Now, you will notice in the independent companies, that the increase in auditing services is appreciably more than the \$900 that we have here. That is because Central Massachusetts has no internal audit at all.

We did not think a company of that size could afford an internal audit.

XQ. Now, we also note that the pro forma audit for Mystic is smaller than that of any other company except the Norwood. How do you explain this difference? A. You will find that difference in the setup, in the Treasury organization, in Mystic Valley. You realize I am sure, that the internal audit function is not simply a function of the traveling auditor, as we call them; there is work that has to be prepared and gotten ready by your company treasury organizations.

Now, where you have an organization that can assist in that sort of work, we took advantage of that and we mentioned it to Lybrand and Ross when they were preparing their estimates. The result is that they figured they would

not need as extensive—or rather, the increased cost would not be as great in the case of Mystic Valley.

[2031] XQ. We also note that among the pro forma audit costs, is an item of \$3,000 for the central organization. Why is such an audit necessary in view of the fact that no similar audit is indicated in this record for the present gas division? A. Our central organization is a completely different setup from the gas division. Am I understanding you correctly?

XQ. I am asking you why is there this charge for central organization when there is no present audit charge for the gas division organization? A. Well, here we are talking about, under the combined operation. We never specified the type of corporate form, but here we do have some form holding these companies together. This is not the case in the gas division but in the case of these, for example, the holding company, the top New England system, that is audited.

XQ. Well, why is the pro forma audit cost for the central organization larger than it is for any of the other eight companies? A. Well, the central organization is the one that is going to be—again, not having a specific corporate form in mind—but the central organization is the one that is going to be responsible for this top organization it is financing; its capitalization; whatever is the type of [2039] corporate form, there is going to have to be some books kept for this organization, and it is the group that is over the whole eight gas companies. It does not seem unreasonable to me that the audit costs would be greater.

XQ. Well, would the central organization staff be greater than that of the local organization of Wachusett? A. Mr. Nowlin, I have a little difficulty with the question. You don't audit a staff.

XQ. Now, you audit the performances of the staff. You have a big staff. Ordinarily, they must be doing some work.

A. You don't audit the performances sir. You are auditing the books of the company.

XQ. Well, let me put it around the other way.

Is the business of the central organization subject to audit as great as that of Mystic Valley which is the largest gas company among the group? A. Yes, sir.

XQ. Does that account for the reason why the audit costs of the central organization is greater than it is for Mystic Valley? A. I don't think there is any question about it. Here, as I said before, it is the auditing of the top organization—whatever form it is, it is holding together these eight companies. Their books have to be audited. Now, [2033] this is a more complicated situation than one operating company.

XQ. Then, you are in effect saying, as I understand it, that the function of the central organization is going to be more extensive? A. No, sir. Not the functions. We don't audit the staff. We don't audit the personnel.

XQ. I am not talking about staff. A. We audit the books.

XQ. I am talking about functions, not staff. A. Well, I don't know that you can say that.

XQ. Let me ask more specifically what you are going to audit the central organization for? What particular aspect of its business are you going to audit them for? A. You are going to audit all of the books.

XQ. You are going to do what? A. You are going to audit all of its books.

XQ. What do those books consist of? A. Well, again, without having a specific corporate form in mind there is, to my mind, no question but what the central organization has got to maintain a set of books for its operations, its financial operations.

I am a little lost.

XQ. Would the set of books for the central organization

be as extensive as those of Mystic Valley? [2034] A. They could be more extensive.

XQ. Well, how could you get an estimate of the amount of the cost to audit the central organization if you did not know what books you were going to have? A. This, as I said, was in discussion with the outside auditors to obtain an estimate from them in which we stipulated the situation.

Here is a type of organization which may or may not be similar to the NEES situation. We don't know what corporate form it will have but unquestionably, it is going to be required to keep a set of books.

These are going to have to be audited by the outside auditors.

Now, giving them that set of stipulations, they came up with this estimate of \$3,000 for that type of work.

XQ. Well then, as to the estimates for the other eight gas companies, they had an actual operation? They knew what their party was going to cover in those cases, did they not? A. Yes, sir. From having audited these companies previously but again we had to make the stipulation of what kind of staff we were going to provide in the central organization to perform the internal audit. The internal audit has a great deal to do with the extent of the [2035] outside auditor's work.

XQ. Did the auditors have any idea as to the books they were going to have to audit from the central organization at the time they estimated this cost of \$3,000? A. Well, I certainly believe so.

XQ. Did you supply them with any information as to the type and character of the books that the central organization was expected to keep? A. Well, I hardly think that is necessary. Again, as I say, we are dealing with professional people in this field. We have a set of stipulations for them. We ask them what, in their estimate, the cost would be.

XQ. Now, turning to the independent audit, how did you determine the space requirements for the combined gas companies? A. In regard to the combined operation, we had already made an estimate of the space requirements for the independent companies. In going from the independent companies to the combined operation, we could deduct the space requirements that we had set up previously for the top staff of the independent companies. Then we had to provide space requirements for our central organization.

XQ. Can you tell me, at the present time, where does the central organization, present gas division, rather, have its offices? Are they separate from Mystic and [2036] Suburban? A. No, sir. They are in the same general office in Malden.

XQ. In other words, the gas division and Mystic and Suburban all occupy the same office building in Malden, is that correct? A. That is correct.

XQ. In determining the space requirements for these independent companies, was it your objective to obtain equal or better space in related facilities than that presently used? A. It was not a consideration of the space or the location that they presently had on the joint operation. We started from the standpoint of what space we need to staff it—I am sorry. What space we needed to house the staff and the various functions that were going to be performed on an independent basis.

XQ. Did you make any independent appraisal of the space requirements of the combined gas companies, upon separation from the NEES system? A. For the central organization, I made a separate evaluation of the space required to house the staff of the central organization. As I just mentioned previously, in the case of the eight companies, we did it by subtracting the space no longer re-

quired for the top [2037] echelon of the independent companies.

XQ. Does the present gas division now pay rent to anyone for space that it now occupies? A. At the present time, the space occupied by the gas division in the Malden office, which is owned by Suburban, there is a rental paid to Suburban by the Mystic Valley Gas Company. That is for the entire space of the Gas Division and Mystic Valley operations, in that Malden office.

XQ. Does the rental cost paid by Mystic Valley include the cost for the space occupied by the gas division? A. That is correct.

XQ. I think page nine of your Exhibit 91 indicates that the central organization will employ 62 persons. Is that correct? A. That is correct, sir.

XQ. How does this number of personnel compare with the personnel of the present gas division? A. There is no comparison.

XQ. Would you know the number of gas division employees? A. Well, the gas division, as we mentioned previously, has 23 employees.

[2038] XQ. Turning to Lynn— A. I would like to add one thing. As I started to say in the beginning, that there was no comparison, I would like to point out that the 62 people that we have in the executive, administrative group of the central organization is not at all comparable to the 23 people we have in the gas division. The gas division is only a part of the service which is supplied to the eight gas companies who have all the services that are provided by the service company, some of which, as we have gone through all day here, some of which functions have got to be performed by staff in the executive and administrative personnel, of the combined central organization, and I think if you compare the total overall organization, you got to remember also the District Treasury personnel,

who were not included in the gas division. Those functions we are replacing with the 62 people. When you compare the total administrative and executive personnel of our combined operation with the personnel of the gas division, the District Treasury, the local organization, you come up with a total of 97 people as compared with our total organization of 109 people.

This is still exclusive of the functions performed by the New England Power Service Company.

[2039] XQ. Well, now, what do you propose to do with the building that is now jointly occupied by Suburban gas division, and Mystic? A. That is a building that is now jointly occupied by Suburban Electric Company. In the case of severance, we have assumed that the gas division and Mystic Valley Gas Company will vacate that property. If that space is made available, we assumed that approximately 9100 square feet could be rented out by Suburban Electric.

XQ. Would it be more economical for the central organization of the combined companies, and Mystic, to stay in that building and have Suburban move out? A. Suburban owns it.

XQ. Well, does not NEES own both Suburban and Mystic? A. Well, we are talking under the situation of the possibility of severance of the gas company.

XQ. I know that, but is it possible for NEES to, if there is a substantial economy that could be effected by the two gas operations staying in the building, and moving the Suburban company. Could not NEES effectuate that change? A. Well, I am not sure that I follow you but do you mean would NEES sell the building to the gas company or something of that sort?

XQ. Well, either sell it or lease it. Did you give [2040] any consideration to that possibility? A. We have considered—I will state the basic assumption that we start at,

from this entire space requirement situation. That in the case where the electric company owned property, the electric company would stay there; the gas companies would move. In the case of properties that were owned by the gas companies, the gas company stayed there; the electric companies moved. I think I stated that in all my direct testimony, originally.

XQ. So that you did not make a study of any basic economy that could be effected by re-arrangements—perhaps moving, we will say, Suburban out of the building, and leaving it to the gas companies, rather than moving the gas companies out and leaving it to Suburban? You assume there is an arbitrary point where the electric company owns the company, they will stay; and where the gas companies own the property, they will stay?

Is that correct? A. That is the initial assumption. When you say did we examine any alternative possibilities, we examined every alternative that was available with the possible exception of any gas company staying in electric company property or any electric company staying in gas company property.

[2040a] There we broke clean.

XQ. Where did you assume that the central organization would be located? Malden or some other place? A. We did not make an assumption as to location. We determined the space requirements of the central organization. Again, because of not knowing what type of form or organization this would take, it was conceivable they might be better situated in Boston. They might be better situated in Malden. They might be better situated somewhere in a point centrally located, geographically among the eight companies. This we did not take into consideration. We determined the space requirements; we priced out those space requirements on the basis of our average square foot rental.

XQ. Was there not substantial variances in the per foot rental charges in different areas in the gas company's territory? A. Rentals for what?

XQ. I think you assumed \$2.00 a foot rental cost plus 75 cents for facilities. A. That is correct.

XQ. Would it make a difference to central organizations from the viewpoint of rental cost, as to where it was located? A. Certainly, if it were rented in Boston, it would pay appreciably more than the \$2.00 per foot. I believe [2041] also, if they were located—I am recalling now my rental figures—if they were located anywhere within the Boston area, they probably would pay higher than \$2.00 per square foot figure but again, in a projection of this type, and going back to what I explained in my direct testimony, in a projection of this type, I thought it more appropriate to use an average system wide basis.

XQ. Isn't it a fact, Mr. Simes, if the central organization in Malden were to stay in the present building, that they are in, that their pro forma cost would be less than they are, in that their pro forma cost would be less than they are under your estimates. A. I cannot make that assumption unless I know what they would have to pay for the building from NEES. They would have to buy it or lease it.

XQ. Do you know what rent they pay now? A. The rental Suburban Electric receives for the space that is occupied by Mystic Valley in the gas division is \$72,000 a year.

XQ. Isn't that based upon cost plus six percent return on investment to Suburban? A. Would you repeat the factor?

XQ. Does not the rental which Mystic pays to Suburban, reflect really, the cost of maintaining and depreciating and operating the building, at least their [2042] share of it, together with six percent return on capital invested in the

building? A. I would say that is generally correct. Yes, sir.

XQ. Well, I think you just mentioned \$72,000 rental paid by Mystic and page 443 of Exhibit 58-A indicates seven-eight-five. Would you tell us which is correct? A. Well, in our discussion of the general office building over in Malden, we were talking just that, and for that space in the Malden office, \$72,000 is paid. The figure that you are referring to includes other rentals.

XQ. I see. Do you know whether or not the central organization together with Mystic could finance the purchase of the building from Suburban at an interest cost less than six percent? A. No, sir. I do not know, and I could not venture to guess.

XQ. Assuming that the central organization and Mystic were to continue their joint arrangements on a pro forma combined basis, would that reduce the rental costs as compared with those projected by you? A. No, sir.

XQ. Let's turn again to Lynn. As I understand it, the Lynn Gas Department and the Lynn Electric Department occupy an office building. On severance, the electric company would move out and no space would be available for rent to outsiders.

[2043] Is that correct?

I think that was taken from page 345 of Exhibit 58-A. A. With the exception of the space that is mentioned here, in 345, that was rented to outsiders; that would continue to be rented under our pro forma setup.

XQ. And the electric department would move out? A. That is correct, sir.

XQ. Now, again, on page 345, it says, upon severance the separate electric companies would abandon these facilities and obtain space elsewhere. No space could be made available for rental to outsiders.

Why could not space be made available? A. Well, you

would have to see this particular building, Mr. Nowlin, to appreciate what I am going to say.

The internal shape of the building has a well that extends from the first floor to the top floor and you have a corridor around this well, on each floor, with offices off of these corridors. You have an elevator that holds about two people at a time. In my opinion, particularly with the rental situation in Lynn, you would not be able to rent any of that space vacated by the electric company. This was the basis of my not reducing the cost, due to a possible rental to outsiders.

In my opinion, you could not rent any of that space [2044] to an outside, commercial firm.

XQ. Well now, what portion of that building is now occupied by the electric part? A. Well, on the first floor, they have joint merchandise display. Also, on the first floor, of course, there is the joint commercial operations. Cashiering, for example. The credit department is on the first floor, which is jointly operated by electric and gas.

On the second floor, we have a conference room, which is used jointly by the electric and gas company. We have various offices, rooms. We have a power billing office, which is used exclusively for electric. All of the other space is on a joint occupancy basis, except for the executive heads of the Lynn Gas and the Lynn Electric company.

On the third floor, you have accounting departments. Your payroll department, which again is under joint operation, is jointly used.

XQ. I believe on page 345, it indicates that the electric company is now paying rent of \$40,600 per annum. What did you estimate the rental expense of the electric department would be upon moving out? A. I think the answer can be found on page 928 of 58-B. Total annual rental cost of \$38,000.

XQ. Now, then, Mr. Simes, why is it necessary for [2045]

the electric department to vacate their portion of the building, after severance? A. This building on Exchange Street in Lynn, that they are currently occupying now?

XQ. Yes. A. Well, Mr. Nowlin, in my opinion, the independent gas company or the independent electric company would certainly not want to share the same quarters. At the present time, they are under the same NEES system, but as independent companies, I just cannot believe—I don't know ever, in my experience, where they have stayed together.

XQ. Is there any reason why they could not continue to share the joint building? They would jointly share the building. A. Yes. I don't believe that it would be desirable; if I were the head of the gas company, I would not want the electric group in there having access to possibly papers which may be of a confidential nature.

Here, we are talking about two separate corporate entities. I just cannot visualize their living together.

XQ. Cannot the gas and electric have separate floors of the building allocated for their own use? A. Since the gas company owns that building, I would see where they would take the first floor for their [2046]appliance display.

XQ. Well, do you know whether or not there is a great deal of appliance sales accomplished by the electric department? A. Are you speaking of direct floor sales?

XQ. I am assuming the joint situation there—it may be the point that you raised in de minimus. A. Well, it certainly is not from the standpoint of the purpose of a display floor for people to see it. This is a promotional rather than a direct sales effort.

XQ. Is this the only reason why they would not remain together? A. No, sir. I used this as an example. As I mentioned before, there are other reasons. If I headed up a separate gas company, I would not want the electric company sharing my quarters.

XQ. I agree with you on the quarters. How about the building? A. I would not want them sharing the building. I don't see, again, as I explained this office building to you, or tried to help you visualize it, the only way that there would be a sharing of it would be to, in the one instance that I mentioned, where you put an appliance display up on the second floor or something. So far as sharing the office quarters, there would be again the problem of a [2047] large office.

We will take, for example, the accounting functions. You could not get them, first of all, in that building as it stands right now. There are two separate accounting groups—general accounting and customer accounting groups. You just could not fit it in there. The only reason you do it now is because it is a joint operation.

XQ. Rather than lose the annual rent of \$38,000 a year, would it not be possible for the gas company to do some remodeling and maybe make some additions, rather than to lose the tenant? A. As I said, from the standpoint of a gas company, that is one tenant I would not want.

XQ. Mr. Simes, is there anything unusual about non-affiliated companies occupying space in the same office building? Isn't that done all over the United States? A. I honestly don't know of any.

XQ. Well, do you know of the Empire State Building? They have plenty of people occupying the same building who are not affiliated? A. The analogy of the Empire Building to the building on Exchange Street in Lynn, is quite far fetched.

XQ. That is the first building that came in mind. I can take some local building here, all in the same category, were you find non-affiliated companies occupying [2048] the same building. There is nothing unusual about that, is there? A. Insofar as the use of quarters in a building

such as you say, where you either have an entirely isolated floor or possibly, isolated rooms, and you are talking about situations where the people have not intermingled before, as they have here, there might be some merit to it but not in this instance, where you got, as I say, number one, you don't have sufficient space for the two of them to operate on an independent basis.

Number two, the gas company or the electric company in any of the instances we have looked at, it is my belief that they would not want to be living together; that they could not live together.

XQ. Regardless of the condition of the building? A. I would say absolutely no, regardless if it were a brand new building, they would not share the quarters. I don't know of any cases where they do have an electric company and a gas company in the same operating area, sharing the same building for all of their functions—all of their general office functions.

Mr. Vorenberg: You are talking about sharing a building. Do you mean sharing the same space?

Mr. Nowlin: No. No. What I can see here, my rough computation is that \$38,000 rental is equivalent [2049] to six percent of a \$650,000 investment; rather than lose the \$38,000 rental, it would seem practical for me—for the gas company—to consider very seriously renovating or making additions to the building, or putting it in a condition that it can get some rental income out of it, rather than lose the \$38,000.

Mr. Vorenberg: I was under the impression that Mr. Simes said it would not be possible to remodel the building. Then you went back and talking about sharing.

Mr. Nowlin: I did not understand Mr. Simes to say it would not be possible to remodel or alter the building.

The Witness: I don't know whether I said it was not possible to remodel, or intimated it. The problem is, when

I started to explain the building to you, there is not anything you can do with it.

XQ. Well, do you know the value of the building as it stands today? A. No, sir. I don't have that figure available. No. I do not.

XQ. Would it be anything like \$650,000? A. I have no idea, sir.

XQ. Well, how much, Mr. Simes, would the gas department of Lynn have to pay for rental space in the event it decided to move from the building? [2050] A. In making my estimates of rental costs and space requirements, I took into consideration the possibility of moving out of existing quarters into other quarters. In fact, I know where there are cases where I deemed it economical to do so. That is exactly what I did.

Now, in this case, my recollection is that in examining the alternatives available to Lynn Gas Company, it would be more expensive for them to go outside and rent the space than to stay where they were.

XQ. Well, on the basis of your computation, what would the space actually cost Lynn Gas if it moved out? A. I cannot find that figure among my papers, Mr. Nowlin.

XQ. Well, if the gas company were to move out, Mr. Simes, would it need to rent as much space as does the Lynn Electric Department? A. Would it need to rent as much space? It would need to rent more space.

XQ. Why? A. We have an organization for the Lynn Gas Company completely on its own, and its space requirements for the independent operation, for the staffing of that independent operation, would be greater than the space requirements for [2051] Lynn which is still part of the NEES system and has certain functions performed by the service company, for example, or operations—rather, joint operations within the electric side of the system.

XQ. Well now, according to our computations, the elec-

tric department has several thousand more customers than the gas department. Is that correct? A. I believe that is correct, Mr. Nowlin. I was just checking to see what the exact figure was.

XQ. Well now, do you know how many employees you have projected for the Lynn Gas department on a combined basis? A. Are we talking combined basis or independent basis?

XQ. Combined basis. A. One basis of the combined operation, I did not realize you were talking from that standpoint. I thought we were still on this independent operation, and when I spoke before of the requirements of—space requirements for the staffing of the Lynn Gas Company, as an independent gas company, that would be different from what you are looking at under the combined operation.

XQ. Let's just stick to the combined operation. A. Very well, sir.

XQ. My colleague said, on page 22 of Exhibit 91, we have 234 employees projected for Lynn Gas. [2052] A. That is correct.

XQ. How many do you have projected for Lynn Electric on the separation? A. Now, I realize we are talking about general office space, and we have to now make some segregation of people who are rating out in the street; people who are operating—distribution employees, for example; people who are working in production plants. The comparison of total employees is impossible from the standpoint of space requirements.

XQ. Well, can you tell us the number—the amount of space that the electric department now occupies in the building and the amount of floor space that the gas company now occupies in the building? That was the figure that I was talking about before. A. I said, when I had made this computation originally and the space requirements

for the Lynn Gas Company, in the event of severance, if it were more economical for them to move out, rather than stay in the same building, and that is the figure which I explained a few minutes ago, I did not have available right now.

Mr. Nowlin: Well, Mr. Examiner, I would suggest that Mr. Simes obtain this information and we can take this subject up again on Monday; therefore, we could recess now.

[2053] Hearing Examiner: All right. Shall we assemble at 9:30 or 10:00 o'clock? Which is most convenient?

I can be here either hour.

Off the record.

(Discussion was had off the record.)

Hearing Examiner: On the record.

We will recess at this point, until 10:00 o'clock, Monday morning.

(Whereupon, at 4:45 o'clock, p.m., the hearing was adjourned until Monday, April 10, 1961, at 10:00 o'clock, a.m.)

PROCEEDINGS

[2055] Hearing Examiner: Let us come to order, gentlemen.

JAMES F. SIMES

was recalled as a witness, was examined and testified as follows:

Cross Examination—Cont'd.

By Mr. Nowlin:

XQ. I think, near the close of the last session, we were talking about the Lynn gas and electric building? A. Yes, sir.

XQ. Do you know what the carrying value of the office building is on Lynn gas's books? A. I believe, Mr. Nowlin,

the book value is approximately \$300,000. It is two hundred ninety-nine, something. I haven't got the exact figure, but it is approximately \$300,000.

XQ. Is that after or before the depreciation? A. That is the original cost, as I recall.

XQ. You don't know what the net carrying is? A. No, sir. I don't.

XQ. Do you know what the total operating expenses of the Lynn building was for 1958? A. When we are speaking of the Lynn building, we are speaking of the group of buildings at 90 Exchange Street as the general office and display building, the carriage house in the back [2056] which is used for gas utilization and the garage and the next door building which they call Prichard Hall and all of those are jointly occupied by the gas and electric. This is separate from the buildings that are jointly used at the Lynn weigh plant and the total operating cost on that was approximately \$55,000 per year.

XQ. How much of that was paid by the Electric Department? A. \$34,000 approximately.

XQ. Do you know the number of square feet of space used by the Electric Department and the same for the gas? A. Again, speaking of these integrated buildings?

XQ. Yes, that is right. A. It was 17,000 square feet for the gas, 14,000 square feet for the electric, and the breakdown of that would be in the general office and display building itself, approximately 6,000 for the gas and 11,000 for the electric and the operating expenses for that building, as a part of the \$55,000 figure I gave you before, was \$47,000. The carriage house in the rear has two floors. The first floor is a garage of about 4,000 square feet of space and the total charges of operating that building—let me finish, the first floor was 5,000 square feet and the second 6,000 square feet. The second floor was completely used by the utilization group of the Gas Department. There was

no electric use there. The first floor of the garage was split, [2057] 4,000 for gas and 1,000 for electric based on the car usage of the garage and the total cost of operating that building was \$8100 of which \$7600 was gas and \$500 was electric. Now, in Prichard Hall, the first floor was rented out to outside tenants at the rent of approximately \$3200. The second floor was split fifty-fifty between the electric and gas. The total of 3,000 square feet in the second floor—1500 to gas and 1500 to electric. The total operating cost of the second floor, only, excluding the outside rental portion, was \$3200, which again, was split, 1600 gas, 1600 electric, based on the use, so the figures I gave you of the three components of the group—\$47,000, that included a general office building and display area; \$8100 for the carriage house, \$3200 for Prichard Hall, minus the rental they received from outside tenants of \$3200, which gives a total of \$55,000 which I gave you before.

XQ. Is the 14,000 square feet of the space for the electric that you referred to, the space they are paying \$34,000 per annum for? A. That is correct, sir.

XQ. Upon what basis was the \$55,000 of cost allocated as between the gas and electric? A. Perhaps I went through that too fast. I thought I had given it to you in the breakdown of figures. As I said, so far as the general office and display room is concerned that space was approximately \$6,000 and \$11,000—I am sorry, [2058] I mis-spoke. 6,000 square feet and 11,000 square feet. The total operating cost of that particular area—

XQ. Which is which? A. 6,000 gas and 11,000 electric. That total area—the cost of operating that total area was \$47,000 which was split, \$15,000 gas, \$32,000 electric, which was the use basis. Now, when we go to the carriage house, the cost of operating that building was \$8,100. The space used there, the second floor 6,000 square feet totally, used by the gas. The first floor of the total 5,000—4,000 used by

gas, 1,000 used by electric, so of the total of 11,000 square feet in that building, 10,000 was used by gas, 1,000 by electric, and the split of that cost was \$7600 gas, \$500 electric, of the \$8100 to operate that building. Prichard Hall, the second floor was split fifty-fifty between gas and electric. The cost of operating the building was \$3200, which was split fifty-fifty.

XQ. How was the space used in that building by the electric as compared with the gas? A. It is a jointly used space. It is a cooking school that they both used.

XQ. The basis for allocating the rental cost—the operating cost of this building is the actual footage used by the gas and electric. Is that correct? A. Well, it is not entirely, because in the case of the general office building, again, we have joint employees, which [2059] is almost entirely the case. There is the allocation which runs to a combination of space and a combination of—I believe employees was one of the factors that was in there.

XQ. Now, in projecting your estimated cost of rental for the electric department, assuming it moves out, how many square feet of space did you project on the pro forma combined operation as compared with the number of square feet of space used by the electric department at the present time? A. Well, for office space and store display space—by store, approximately 14,000 square feet which compares roughly with the 11,000 square feet I mentioned before—similar types of space.

XQ. I believe you previously testified that you assume that if the electric moved out, the gas would not be able to rent any of that space. Is that correct? A. That is my opinion, yes, sir.

XQ. Why did you make that assumption? A. Well, may I have the basic question again, before it slips my mind? (The pending question was read by the reporter).

The Witness: That is correct, and the reason, as I tried

to describe last Friday—you would have to see this building to actually visualize the problems you would have in trying to rent any of the space that would be available. You realize, of course, that with the electric moving out, [2060] and the increased personnel requirements on the gas, because of the loss of joint operation, they would take up quite a bit of the space that the electric was vacating but even—the vacated space—I could not imagine how any of it could be rented. It is not in the heart of town. It has a tiny rickety elevator which will only hold about two people. I mentioned it—I think I used the word “well”. I am not sure that is getting the picture across to you. There is a part of the space; I would say it is more than a third of the floor, that is open, with a balcony around it.

By Mr. Nowlin:

XQ. Is that on each floor? A. Yes, sir.

XQ. Did you give any consideration to the location of the central organization for the gas companies in this building?

A. No, sir. I did not. As I mentioned before, we don't know what type of corporate form this central organization would be held in and we did not attempt to allocate any particular space. I also mentioned that we determined the space requirements based on the personnel required for the central organization, priced that out on our average rental plus utilities and maintenance cost of \$2.75.

XQ. Wouldn't the most economical arrangement be to locate the central organization in this building? [2061] A. It wouldn't fit.

XQ. What do you mean it wouldn't fit. A. The space requirements of the central organization wouldn't be able to fit within the space that we have left over here after the requirements of the new gas company.

XQ. You mean that there wouldn't be adequate space left for the central organization? A. Yes, sir.

XQ. Couldn't the gas company enlarge or put an addition to the building to house the central gas organization? A. Number 1, it would be impossible to put an addition there is no room for expansion; number 2, I don't believe that structurally that building could be improved to accommodate any additional space. It is a peculiarly constructed building, as I mentioned before.

XQ. How many square feet did you estimate for the central organization per person? A. I didn't do it on an average per person basis. I took the individual requirements, the floor space for the President, Vice-President, and so on, Secretary, the entire organization and I came up with 13,600 square feet as the requirements for the central organization.

XQ. I believe you just previously stated that the electric department of Lynn, now occupies 14,000 square feet of the space of the building? [2062] A. No, sir—11,000 of the building. 1,000 was in the carriage house—in the garage of the carriage house, and 1500, I stated, was in the second floor of Prichard Hall.

XQ. Isn't the available space of the Lynn buildings just about the amount of space that you projected for the central organization? A. But you also have to take into consideration the fact that you are looking at only the 11,000 square feet vacated by the electric. Now, in the end, Lynn Gas Company is going to occupy appreciably more than what they did before.

XQ. Did you make any estimate of the cost of space to the gas department, assuming they were to move out of the building? A. Yes, sir. I did.

XQ. What did that amount to. A. \$59,000.

XQ. How many square feet did you project for the gas department? A. A total of 21,500 which is broken down to 14,000 square feet for general office and display area. The 6,000 square feet they now use for the utilization de-

partment and the carriage house, which they would still require, and the 1500 square feet for the cooking school.

XQ. Didn't you say just a minute ago that you estimated 11,000 square feet for the central organization? [2063]

A. No, sir. 13,600 for the central organization.

XQ. Directing your attention, Mr. Simes, to page 37 of Respondent's Exhibit 91, I notice there you have estimated the central organization would require office space at a cost of \$37,000. Is that correct? A. Yes, sir.

XQ. Now, if they only need 13,000— A. 13,600.

XQ. Yes, 13,600, how do you arrive at the total cost of \$37,000? A. If you multiply the 13,600 by \$2.75 per square foot, you come out to approximately \$37,400, which I ran it off to \$37,000.

XQ. Did you make any study, Mr. Simes, to determine whether or not it would be more economical for the Gas Department to sell its present building and construct a new building? A. Well, as I have mentioned before, Mr. Nowlin, in all of these cases, we have taken what we believe to be every possible alternative into consideration. Again, you would have to see this building, in the location it was in. I don't think they would get anything for it except land, if somebody wanted to make a parking lot out of it. This is after an examination of the building and the area.

XQ. Well, let's assume they were to tear down the building [2064] and construct a new building that would be available for Lynn gas and the central organization. Did you give any consideration to that? A. Yes, in an estimating way. As I have mentioned time and time again, this process of a study of this sort, is a continuing thing of gathering data and formulating judgments. A judgment on the particular thing that you are talking about could be very quickly made. In my judgment, it would be much more costly to do as you suggest.

XQ. Well, as I understand it, you were instructed to

assume, for the purposes of your study, that where the gas companies owned the gas building, they would retain the gas building, and where the electric companies owned the electric building, they would retain the building. Is that correct? A. There is one misunderstanding in that question sir. There were no instructions to me in that regard. I believe, what I stated last week, was, that as a result of our examinations of the situations, the result was that in every instance, it was more economical in the case of an owned building for the party, either electric or gas, whichever owned the building, to remain there. Now, what I did say, and I think this may have lead to the misunderstanding, is that under no circumstances would I consider the two electric and gas, separated companies, living in the same quarters.

[2065] XQ. Well, I had gathered the impression that one of the assumptions you were told to follow in the course of your study, either by the NEES people, or Mr. Quig, was, that where the gas company owned the building, they would stay where they are and where the electric company owned the building, they would stay where they were. Am I incorrect in that part of your testimony? A. Yes, because there were no instructions to me of that type and as I just said, in the examination of various areas, the result was from the economical evaluations—the result was that where an electric company owned the property, it stayed there, the gas moved. Where the gas company owned the property, the gas company stayed there and the electric moved. This was a result.

XQ. Have you made any study, or attempted to ascertain information as to what suitable new offices would cost Lynn? A. If it were built?

XQ. Yes. A. As I mentioned before, this was a judgment evaluation. Now, in the particular case of building costs, again, it was one of those things. You didn't have

to go into a quick evaluation. As I recall the situation on that particular instance, this was a case of contacting my conferees, space experts, in Ebasco services to get an estimate of what it would cost, and didn't put anything down because it was [2066] out of the picture entirely.

XQ. Do you know what figure they gave you, as to the cost of a new building? A. No, sir. I don't recall. As I say, this was a judgment that was made on the spot at the time.

XQ. From your general knowledge, what would the Gas Department have to spend to put up an adequate building for itself and for the central organization? Lets start with the building for itself? A. Well, I am sorry, Mr. Nowlin, but this is not a figure that I keep in the back of my head. To sit down and say what the cost of a new building would be, I repeat what I said before, that this was a judgment made on the basis of available data, and it just didn't compare with the cost of operating here.

XQ. You don't have any idea whether the cost of such a building would run one million or two million or five hundred thousand? A. I wouldn't venture a guess right now.

Hearing Examiner: What size building do either of you have in mind, a one story, or two story, or three story, or are you just talking about a building?

Mr. Nowlin: A building that would be sufficient to house the Gas Department. He knows the number of square feet needed and he is familiar with the land up there, and [2067] it seems to me it wouldn't be too difficult to, at least, estimate the size of the building and the cost to house the Gas Department, exclusive of the land, which you already own.

The Witness: This judgment was made but at this moment, to make a calculation of this type—

Hearing Examiner: I gather from your testimony, it

was just a rough estimate of a building that contained the required number of square feet? Was that all the estimate was, a rough estimate, without any details being assembled?

The Witness: There was no details assembled, no, sir.
By Mr. Nowlin:

XQ. Well, then, upon the basis of your testimony, we have nothing whatever, do we, to estimate what it would cost to construct a suitable building for the gas department, exclusive of the land? A. You have my statement that the judgment was made at the time and in terms of an estimate of this type, there was no comparison between keeping the building as it presently is, for gas use, as compared with tearing it down and building a whole new structure.

XQ. Do you have any doubt that the gas department of Lynn could finance the cost of constructing such a building? A. Are you talking—under an independent operation of gas?

XQ. Under a pro forma combined operation. [2068] A. Then, you aren't speaking of Lynn doing the financing?

XQ. Well, I assume, Lynn. A. You are speaking of the combined operation, or Lynn as an independent company?

XQ. Lynn as a part of the combined organization, probably could raise capital, maybe cheaper than the company, by itself? A. It might be a question of being able to raise it at all, I don't know about cheaper. No, I don't think they would have any—I don't know what they would have to pay for the capital. I think they would be able to raise it.

XQ. Do you have any doubt they could obtain the capital to construct this building for less than six percent?

Mr. Vorenberg: Are you talking about a building, just for Lynn, or for Lynn and the combined operation?

Mr. Nowlin: Just for Lynn Gas Department, now.

The Witness: What was the question?

(The pending question was read by the reporter)

Hearing Examiner: By "they", you mean Lynn Gas?
Mr. Nowlin: Yes.

The Witness: Sir, I don't know. It would depend upon the time they were trying to raise the capital, it would depend upon the conditions of the gas companies at that particular instance, it would depend upon the cost of money in the [2069] market at that time. There are many factors. I would say they would probably have to pay somewhere around six percent.

By Mr. Nowlin:

XQ. Do you know what the Metropolitan Life Insurance Company is now charging for funds with which to construct similar office buildings? A. No, sir. I am not.

XQ. You don't know whether or not this building could be constructed on an F.H.A. Guaranteed Mortgage, do you? A. I am not sure, sir.

XQ. Isn't it a fact, Mr. Sime, that an individual, for example, with good credit and owning that land, could himself, borrow the funds from a life insurance company or some of these large insurance companies, at a cost cheaper than six percent, using the land as his equity in the mortgage? A. Mr. Nowlin, I am not sure that you are making a valid comparison in framing the question you put to me. Certainly, you realize in a business enterprise, there are many more factors than what an individual has to contend with when he is going out to get a mortgage. As I mentioned before, one of the things I mentioned, would be the financial condition of those companies at the time of borrowing. There are times when you can't get a loan at all, if you are in bad financial straits.

XQ. Have you given any consideration to the construction [2070] of a new building to house both the Lynn Gas Department and the Central Organization of the combined gas companies? A. No, sir. As I stated before, the central organization was pro formed for the space requirements of

the personnel that would be required, and those space requirements were assumed to be—to cost an average of \$2.75 per square foot and we did not attempt to locate it in any particular place at all.

XQ. Is there any reason why the central organization could not operate just as well out of the Lynn area, as any other area? A. Yes. I think there are probably very good reasons. Number 1, if you have got—we are talking now, again, the combined operation of eight gas companies. It certainly would seem to me that the central organization—and I am speaking now of the executives who would be responsible for this operation—would not choose a—shall I say—provincial spot like Lynn to put their central organization in. This is going to, when you pick a location for your top executives, it is chosen with great care for public relations reasons, as well as employee relations reasons, operating reasons.

XQ. Well, would you recommend continuation of the central organization at its present location in Malden? A. The central organization is not located in Malden. The gas division is located in Malden.

[2071] XQ. I mean the Gas Division. Would you recommend that as a preferable area to locate the central organization? A. If I had to make a recommendation, I would probably choose the Boston area as being centrally located for the eight gas companies, taking into consideration the fact that the greater amount of business is done on the Eastern side, closer to Boston, than the Western end, with Central Massachusetts, Wachusett, and North Hampton.

XQ. It looks like, Mr. Simes, from the map, that Lynn is probably more centrally located in the service areas of North Shore and Lynn and Mystic, than, even, Malden is. Is that your view of it?

Mr. Dunn: Why don't you identify, for the record, which map you are looking at.

Mr. Nowlin: Respondent's Exhibit No. 51.

Mr. Vorenberg: You might find 66 more helpful in that connection.

Mr. Nowlin: All right. Either one.

Hearing Examiner: Now, read this last question.

(The pending question was read by the reporter).

The Witness: No, sir. It is not. If you were to consider it, shall I say, the Eastern area, which would comprise Mystic Valley Gas Company, Lawrence Gas, Lynn Gas and North Shore Gas—I say, there is no question but considering density, customer's, that Malden is better suited than Lynn.

[2072] XQ. Isn't Lynn nearer the operating territory of these four companies than is Boston? A. Well, as I mentioned before, the consideration in setting up a central organization location, is more than finding an equi-distant space between the operating groups.

XQ. Don't you think it is much more preferable to have the central organization located in the actual operating areas of these companies rather than outside of that area?

A. Not always, Mr. Nowlin. I know cases where the central organization—the executive group is located at an entirely different—not even in the operating area of a company.

XQ. Well, anyway, have you made any real study as to where the central organization should be located? A. I have stated before that, not having any corporate basis on which to depend, I have pro formed the space requirement, necessary personnel and determined a cost of that space on an average basis.

XQ. Now, in arriving at your average cost of \$2.00 per square foot, and \$.75 for operating expenses, didn't you run into some wide variations in rental cost in the different

areas served by these gas companies? A. What do you mean by wide variations?

XQ. For instance \$2.00 as an average—what was the spread of that \$2.00 average? [2073] A. It varied from approximately \$1.00 per square foot to around \$5.00 per square foot.

XQ. Could you give us those composit figures for the record? I would like for you to supply the figures and the area from which they were derived so we may get some overall view of just how the \$2.00 figure was arrived at? A. Out in the Central Massachusetts area, Webster South Bridge and Spencer, it ranged from \$1.40 to \$2.00. In Lynn, it ranged from \$1.50 to \$3.15. These are dollars per square foot. In the Beverly and Gloucester area, it ranged from \$2.00 to \$2.50. In the area served by Mystic Valley, which would be Malden and the surrounding towns, it ranged from \$1.00 to \$4.00, and, in one instance, in that area, out in the shopping center area, it got as high as \$5.50. In the North Hampton area, it ranged from \$1.35 to \$3.30. In the Lawrence area, it ranged from \$3.00 to \$4.00. In the Leominister and Clinton area, it ranged from \$1.50 to \$3.50.

XQ. To what do you attribute those wide variations of \$1.00 to \$5.00, and in one instance from \$2.00 to \$5.00. Was it the different type of buildings or equipment in the buildings, or what? A. No, it was primarily two factors, one, the type of space required, comparing, say, office and display floor space with store room space, the store room space being the low points, and also, the various areas, as you noted, as I [2074] was going from area to area, that the average is different, in the different locations. This is generally so, depending upon the availability of that type of space.

[2075] By Mr. Nowlin:

XQ. Directing your attention to Wachusett and Worces-

ter—I think that is page 827 on Exhibit 58-A—give us a brief description of these joint facilities and their location in relation to the operating areas of the gas and electric companies. A. In Webster, Worcester County Electric Company owned the office on Maine Street, which was jointly used by Worcester County Electric and Wachusett Gas Company. In Leominster there is an office on Maine Street leased by the Worcester County Electric Company that was jointly used by Worcester County and Wachusett Gas Company. On Mechanic Street in Leominster, there was a stock room jointly used by both companies. In Clinton, on High Street, there was an office owned by Worcester County jointly used by Wachusett and Worcester and on Parker Street in Clinton there was a stock room jointly used by Wachusett and Worcester County.

XQ. What was the basis for the \$7,000 rental paid by Wachusett as indicated on page 827 of Exhibit 58-A? A. The basis of the allocation was a use, space use basis.

XQ. Do you know the number of square feet used by the gas company as compared to the electric company in the general office building? A. Which one are you referring to, Mr. Nowlin?

[2076] XQ. The second paragraph says "Quarters jointly occupied by Wachusett and Worcester consisted of general office space, garage and stock room area. For the use of its portion of the quarters occupied, Wachusett paid a rental of \$7,000." What portion of that applies to general office space? A. Approximately \$5800 of that \$7000 is for office space.

XQ. Do you know for how many square feet? A. No, sir, I don't have the split here with me. This is for two office buildings, the one I mentioned at Maine Street in Leominster and the other one High Street in Clinton.

XQ. Do you consider the rental payments of \$7,000 paid by Wachusett to Worcester to be a fair charge? A. At

the time that we made this evaluation, we examined the basis of allocation and came to the conclusion that it was a fair allocation.

XQ. Could you give us the details for that conclusion?

A. Well, as I mentioned before, I do not have the square feet detail with me but in general the basis for the conclusion was on the basis, as I said before, the allocation was based on square foot of use, bearing in mind again that you do have employees occupying space who are jointly used by both the electric and the gas company.

XQ. Well, how can we test your conclusion, Mr. Simes, if we don't have available to us the underlying data? [2077] Mr. Vorenberg: I think Mr. Simes said that he did not have the specific square foot figure from the stand, not that the data would not be made available to you.

Mr. Nowlin: Could I inquire of counsel will you supply that information for us?

Mr. Vorenberg: We will do that.

By Mr. Nowlin:

XQ. Mr. Simes, if the \$7,000 charge of Wachusett is fair, how can you reconcile that with the cost of \$24,400 or about three times as much for this space as you have projected on a combined pro forma basis? I mean on a severance basis. A. In the case of Wachusett Gas Company, under pro forma operation, we would have required or we would require approximately 5600 square feet for its office in Leominster, 2400 square feet for store room space in Leominster, 900 square feet for primarily merchandise display in a store. In Clinton we decided that with the office over in Leominster, all we would need would be a store for cashiering and public contact and display purposes for which we required 1,000 square feet. Now the total of that is approximately 10,000 square feet, at \$2.75 a square foot, less the amount that was chargeable directly to merchandising accounts.

XQ. You don't know how the square footage that you projected on the severance basis compares with the actual square feet that they are now using, do you? [2078]

A. Well, I think that the figure for the square feet or the allocation of square feet to be used is something that counsel has already suggested that we would supply. Again I would like to point out, as I have been pointing out throughout, that we pro formed the organization, determined the people that we need and then on the basis of the type of organization we have and the people required, we then determined the space requirements on the pro formed organization.

XQ. To what extent is this 24,400 figure reduced on a combined operation basis? A. Mr. Nowlin, I direct your attention to Exhibit 105, supplementary schedule No. 4, and in the tabulation at the top of the page you see the first column headed, "Pro Forma Rental Cost". This is pro forma rental cost under combined operation and Wachusett Gas Company becomes \$19,600.

XQ. Well, isn't the organization of Wachusett on the pro forma rental basis, on a combined pro forma rental basis, about the same as the present organization?

Mr. Vorenberg: Mr. Nowlin, what do you mean by a pro forma rental basis? I am not sure I understand that.

Mr. Nowlin: I think that is the title of the—

Mr. Vorenberg: Pro forma rental basis?

Mr. Nowlin: You have pro forma rental costs as the heading of the column I am looking at on Exhibit 105. We assume that is on the combined pro forma operation basis.

[2079] Mr. Vorenberg: Read the question.

(Question read by reporter.)

Mr. Vorenberg: Mr. Nowlin, just so I understand the question, you are asking him to compare the space needs for the organization of Wachusett under actual operation

and the space needs for Wachusett under pro forma combined?

Mr. Nowlin: Yes.

The Witness: There is a reduction primarily in the E & A staffing of the independent operation and the combined operation for Wachusett with nine people included in the E & A group under independent operation versus six people under combined operation.

By Mr. Nowlin:

XQ. That is E & A? A. That is correct, sir. As a matter of fact, you will notice on page 35 of combined operation that there are three of those, six E & A, the Chief Accountant, stenographer and Chief Clerk, whose work under combined operations is split between Wachusett and Central Mass. and, as I recall, they were to be located in the Central Mass. office, so actually we are providing space for only three people in the executive and administrative staff of Wachusett as against nine under independent operation.

XQ. How do you account for the fact, then, Mr. Simes, that on an increase of three people the rental cost of \$7,000 [2080] basis jumped to \$19,600 on a pro forma combined basis? A. Sir, I was referring to the comparison between the \$24,400 shown on page 827 of Exhibit 58A and the \$19,600 as shown on schedule 4 of Exhibit 105.

XQ. Isn't it a fact, Mr. Simes, that the local pro forma organization, on a combined basis, would require about the same space as the same organization at present? A. You are speaking of Wachusett?

XQ. Right. A. Well, I just mentioned that in the E & A there is space provided for nine executives, including a President, on page 818 of Exhibit 58A, as against three people on page 35 of Exhibit 91.

XQ. Now you are comparing the independent company basis with the pro forma combined. What I was doing

was asking you to compare the pro forma combined with the actual organization. A. Well, that, again, comes back to the question of the information that counsel offered to supply, the actual space of the present operation where they jointly use space with Worcester County Electric.

XQ. According to Exhibit 105, your pro forma combined rental cost is \$19,600; is that correct? A. That is correct. Yes, that is correct.

XQ. Now on an actual basis, your actual cost is \$7,000? A. Yes, sir.

[2081] XQ. Now, is it also a fact that there is a slight difference in the personnel requirements on a pro forma combined basis and those on an actual basis? A. Oh, no.

XQ. What is the difference? A. This is the point I was making before. In the case of the present NEES operation we have jointly used people. In splitting them, in the event of severance, you are going to require considerably more people to man the Wachusett Gas Company and that was the space requirement pro formed that I mentioned before that came up to \$24,400, exclusive of that chargeable to merchandising. Then you asked me if I could compare that with what they were presently doing under joint operation with Worcester Electric in these offices in Leominster and Clinton and that was the information that counsel offered to supply you.

Hearing Examiner: Let us have a short recess.

(Short recess taken.)

Hearing Examiner: Let us come to order.

By Mr. Nowlin:

XQ. Mr. Simes, does Wachusett and Worcester maintain joint display on sales floors? A. Yes, sir, they do, in Leominster and Clinton.

XQ. Now, are the operations of Worcester and Wachusett as closely intermingled as they are in the case of Lynn Gas

& [2082] Electric? A. I am not sure that I—Could you expand on “intermingled”?

XQ. If I recall your testimony on Lynn, you said that the Accounting Department, the desks and equipment and everything was mixed together and some of the other departments were very closely mixed and jointly operated. Am I correct in my recollection of that testimony?

A. That there were people used jointly, yes.

XQ. Well, I gathered from the testimony—if I misconstrued it, why tell me—I gathered from your testimony on Lynn that probably the joint operations of Lynn Gas & Electric were closer intermingled than they were with any of the other system joint operations. Am I correct in that interpretation? A. I don't think that I intimated that.

XQ. Well, now, does Worcester and Wachusett have joint garages? A. Do Wachusett and Worcester have joint garages? That is the question?

XQ. Yes. A. Not in a garage building in the Wachusett area. Whatever vehicles are parked are stored out in the open.

XQ. Well, is there any portion of your estimated rental cost upon the severance of Wachusett based upon the rental of new garage space? [2083] A. No, sir, there is not.

XQ. Your total here of \$24,400 is based on only office space? A. Well, the items that I mentioned before and I believe I gave you the square footage before, was office space in Leominster, store space, that is, display and cashiering and stock room space and then over in Clinton we decided that we would only need a store there for cashiering and display purposes.

XQ. Now, directing your attention to a similar situation with respect to Lawrence and Merrimac-Essex, page 232 of 58-A. Now, as I understand the information on that page, you estimate that it would cost Lawrence \$60,800 rent for

adequate space to house its staff on an independent company basis; is that right? A. As I said here on page 232, which I believe you were reading from, under independent operation the rent for adequate space to house the expanded staff and other operations was estimated at \$60,800, including utility and maintenance, but exclusive of space for appliance display which was included in the cost of merchandising activities.

XQ. Now that \$60,800 figure on an independent company basis becomes \$61,300 on a pro forma combined basis, doesn't it? A. You are referring to the figure on schedule No. 4 of [2084] Exhibit 105?

XQ. That is right. A. That is correct, sir.

XQ. How does that occur? A. The difference comes about because the pro forma rental cost shown on schedule No. 4 of Exhibit 105 includes the space for merchandising, which in our organization of Exhibit 58A was contained in another section of Exhibit 58A. As I mentioned before, the \$60,800 excluded space for appliance display, which was included in the cost of merchandising activity.

XQ. Do you know what this cost of merchandising display amounts to? A. The amount of rental space chargeable to merchandising was \$5,600.

XQ. Well, now, isn't the figure on Exhibit 105, pro forma rental cost of \$61,300, isn't that also exclusive of merchandising cost? A. No, that is included. That includes the merchandising.

XQ. You mean all of these figures here on the pro forma rental column 1 here are not on a comparable basis with those reflected in Exhibit 58A? A. Yes, sir, they are on a comparable basis with Exhibit 58A. 58A has them in two sections.

XQ. I believe, Mr. Simes, that page 232 of Exhibit 58A [2085] indicates that the figure \$37,100 actual cost of

rentals reflected on 105 is exclusive of rental cost of merchandising. A. That is correct.

XQ. In order to make the figure of \$61,300 comparable with \$37,100 as reflected on Exhibit 105, shouldn't the \$61,300 figure be exclusive of merchandising? A. Mr. Nowlin, let me clarify this situation. I misspoke before when I said that the \$61,300 on schedule No. 4 of Exhibit 105 includes merchandising. Of course it does not.

XQ. Now we are back to our original question of why does the \$60,800 go up to \$61,300.

Mr. Vorenberg: Mr. Nowlin, I am no accountant, but I am guessing that this item is not a single item but that it a net of a number of different items, that it may be more expeditious if on that type of intricate accounting thing we provided you with a schedule or a breakdown that would help your analysis.

Mr. Nowlin: There appears to be an obvious inconsistency and if I could, I would like to get the answer from the witness.

The Witness: There is a net increase of space requirements in the case of the Lawrence Gas Company under combined operation. The space requirements for the local organization would be reduced by approximately a thousand [2086] square feet. However, there will be joint treasury activities between North Shore Gas Company and Lawrence Gas Company under combined operation, which, of this total space required for Lawrence, the joint treasury operation would require an additional 2200 square feet over the thousand reduction due to the part of the E & A group being with the central organization. Half of this 2200 feet is billed to North Shore, but the net increase to Lawrence Gas going from independent operation of \$60,800 to \$61,300 is due to that joint operation of the North Shore and Lawrence treasury groups and the billing of the North Shore for half of the space.

By Mr. Nowlin:

XQ. Mr. Simes, according to page 222 of Exhibit 58A, Lawrence had a grand total of 149 employees on a pro forma independent company basis. On page 18 of Exhibit 91, it indicates that Lawrence Gas Company will have a grand total of 139 employees on a pro forma combined basis, or a total of ten less employees than on an independent company basis. Yet the cost on an independent company basis is \$60,800 as compared with \$61,300 on a pro forma combined basis. I am having difficulty understanding how you fix these figures. Can you explain that for us? A. Well, that is what I just explained, that the reduction in space requirements for Lawrence Gas Company under combined operation was a thousand square feet. However, due [2087] to joint treasury operations with North Shore Gas Company an additional 2200 square feet over the independent operations would be required. Now we are talking in net differences here of, between \$61,300 and \$60,800, of \$500.00.

XQ. Where does the joint operation take place in the Treasury and Accounting Departments? A. Primarily in the executive and administrative groups where you have a chief accountant, secretary, assistant chief accountant and a stenographer who would be shared jointly between North Shore and Lawrence Gas Company.

XQ. Well, in the executive and administrative staff, you only show eight on a pro forma combined basis and you show fifteen on an independent pro forma basis—almost twice as many on an independent basis as on a pro forma combined basis. It doesn't seem to indicate that the cost should be less.

Mr. Vorenberg: Mr. Nowlin, I think we are getting bogged down here on something that is set forth right in the Ebasco report itself. If you will just turn the page to 233 you will see the reference to the garage item of \$3,300, which I think makes up the discrepancy you are wondering

about and I don't know that it is expeditious to be spending this much time on an accounting detail.

The Witness: Mr. Nowlin, if I had turned the page, I, too, would have recalled this detail. The figure to be [2088] compared with the \$61,300 is the \$60,800 shown on page 232, plus the \$3300 shown on page 233, which is a total of \$64,100. So that there is not an apparent inconsistency. The rental costs go down from independent operation at \$64,100 to \$61,300, as shown on schedule 4 of Exhibit 105.

Hearing Examiner: In view of the remarks of Mr. Vorenberg and the testimony that the witness has just given, do we need to spend any more time on this \$3,300 item?

Mr. Nowlin: We are still having difficulty, Mr. Examiner, in reaching the same result that they do.

Hearing Examiner: That is the inquiry I am making.
By Mr. Nowlin:

XQ. Well, isn't the pro forma organization on a combined basis considerably smaller, that is for Lawrence, considerably smaller than it is on a pro forma independent basis? A. Well, I wouldn't use your expression "considerably smaller". I will state again what I have said repeatedly, that in the case of the pro forma organizations, both for independent operation and combined operation, we determine the space requirements for the staff required for the equipment necessary to conduct their operations on two separate independent bases and space required under pro forma organization, independent operation, was priced out at the \$2.75 figure, plus the \$3,300 for the garage, which we mention on the top of page 233 and we priced out the space requirements of the [2089] pro forma operation under combined operation.

XQ. Let's take some of these items one by one, Mr. Simes. Look at page 220, 58A, and page 16 and 91. Now on the independent company basis you have a total of 15

personnel projected for the executive and administrative; is that right? A. What page was that in Exhibit 91?

XQ. Page 220 of 58A and 16 of 91. Now, on the independent company basis you have 15 E & A, haven't you? A. That is correct, sir.

XQ. And on a combined basis, you have eight E & A; isn't that correct? A. Yes.

XQ. Doesn't the fifteen on an independent company basis require considerable more space than the eight on a pro forma combined basis? A. We would have to go through the—when you say is there a considerable difference, so far as numbers are concerned, but in the executive and administrative staff under independent operation, where you are providing space for the President, Vice President, Sales Manager, Engineer, Assistant Engineer and so on that are not included in here, when you are reducing down from the independent operation to the pro forma combined operation, you are discussing different amounts of space for the individuals. You can't relate the eight and the fifteen [2090] directly.

XQ. Well, on an independent company basis, Mr. Simes, you have a President, that you just mentioned, you have a Vice President and Sales Manager and an administrative assistant that you don't have on a pro forma combined basis. Wouldn't this space for a President and these higher echelon executives require more space than it would on a combined pro forma basis? [2091] A. I would like to have that question again, please.

Hearing Examiner: All right. Read the question.

(The pending question was read by the reporter)

The Witness: Well, again, I say that we would have to compare this on an individual basis, and rather than try to answer your question from what I have available here, I would like to find my basis of pro forma combined opera-

tion space determination which apparently I do not have with me right now.

XQ. Well, isn't it obvious, Mr. Simes, that just looking at the classification in salaries of the E & A reflected on an independent company basis, and compared with that, on a pro forma basis, it clearly indicates that you would require more space on an independent company basis than you would on a pro forma basis? A. Yes, sir. That is true. We have reduced the amount of space required under pro forma, combined operations.

XQ. Would it not be a substantial reduction in space required? A. Well.

Hearing Examiner: Are you withdrawing this question?

(The pending question was read by the reporter)

[2092] Hearing Examiner: Have you anything further to add to that question? Are you ready to answer it, Mr. Witness?

The Witness: No, sir. Again, not a substantial reduction. We are also talking about the total overall space requirements for the independent operation and the combined operation and as I mentioned before, there is a reduction in space requirements.

XQ. (By Mr. Nowlin) Well, Mr. Simes, doesn't that reduction come about because of the garage rental—executive-administrative, you don't house them in a garage? Isn't that right? A. I think you misunderstood, Mr. Nowlin. The total rental cost including the garage for Lawrence Gas under independent operation, is \$64,100. This is compared with the \$61,300 shown on Schedule 4 of Exhibit 105.

XQ. Suppose we take the garage out of each one of those figures. What do we get? A. Do you want me to make the calculation?

XQ. If you will, please. A. We would have \$60,800 for independent operation, and \$58,000 for combined operation.

XQ. That is a decrease of \$2,800 on the independent company operation. Is that right? A. That is correct.

[2093] XQ. And yet, when you refer to the E & A staff on an independent company basis, as compared with the pro forma basis, you find that the number is almost twice as great on an independent company basis as it is on a pro forma basis and that the total payroll is almost three and a half times on the independent company basis as it is on a pro forma basis.

Doesn't that indicate to you that there is a discrepancy somewhere in here, in the amount of space that you estimated to be required for the E & A staff? A. Well, as I stated a moment ago, and I would be very glad to supply you the figure, I cannot locate right now my combined operation pro forma space requirement from which I would be able to make the direct comparison.

XQ. Well now, going down some more of these categories, their operating departments, pro forma combined, you show a total of 16 personnel on an independent company basis. You show a total of 16 personnel; on a combined basis under a sub heading "Garage", you show a total of three on each exhibit.

On each exhibit, you show a total of 14 distribution personnel each. On utilization, the total operating department, you show a total of 59 each on the exhibit.

On new business, you show a total of 21 for each basis.

[2094] On Treasury and accounting you show nine for Lawrence on an independent basis and 7 on a pro forma basis.

Mr. Vorenberg: That is just reading down the pro forma. You are not reflecting, for example, when you talk about general accounting, the possibility of other companies being combined under one roof?

Mr. Nowlin: Well, I am giving you the figure that you gave us in these two exhibits 58-A and Exhibit 91.

Hearing Examiner: Well, what question are you asking him now?

Mr. Nowlin: Well, I want to point out, Mr. Examiner, that there is only a difference of two people—of five people, between the pro forma combined operation and the pro forma independent operation.

Hearing Examiner: Well, what question are you asking the witness? Are you reciting these figures? What do you want to ask about?

Mr. Nowlin: I am leading up to that question.

Hearing Examiner: All right.

Mr. Nowlin: So far as we can see, there is practically no change in the total personnel between the two bases, other than in the executive branch.

Mr. Vorenberg: If you—

Mr. Nowlin: Treasury and Accounting.

[2095] Mr. Vorenberg: If you are referring to specific pages, Mr. Nowlin, I think you also ought to permit him to include a reference to page eleven, where there is a reference to the combination of general accounting activities for Lawrence and North Shore.

Mr. Nowlin: I am not trying to exclude him.

Mr. Vorenberg: If you are making him go down the pages, you ought to include all the relevant pages.

Mr. Nowlin: Frankly, there seems to be a glaring inconsistency to us between the computed cost on a pro forma combined basis and on the independent company basis.

I am trying to ascertain—

Mr. Vorenberg: Why don't you permit him to include everything, in order to give you an explanation.

By Mr. Nowlin:

XQ. Now, in view of those comparisons, Mr. Simes, isn't it obvious that the rental cost on a combined basis should be considerably less than it is on an independent company basis? A. As I said before, this comparison of

the independent operation for space requirements and for operation under the central organization, space requirements, have got to be considered in total.

XQ. Isn't it a fact, Mr. Simes, that the only differences that take place between the two organizations [2096] is in the executive-administrative section and in the treasury and accounting section?

Mr. Vorenberg: Are you talking—

The Witness: In the treasury and accounting sections, as you notice, on page 11 of Exhibit 91, it states that, "As jointly performed, these said functions—general accounting, that is—would require 14 employees as compared with a total of 18 on an independent company basis."

Now, again, I repeat—

Mr. Nowlin: What page are you referring to?

The Witness: Page 11 of Exhibit 91.

This question of space requirement has got to be considered in total.

By Mr. Nowlin:

XQ. Well, doesn't your estimate on page 16 of Exhibit 91 under E & A take care of those joint operations; and on page 18 of the treasury and accounting?

Mr. Vorenberg: Now, it seems to me, Mr. Nowlin, that maybe we are wasting some time here because are you not confusing, again—

Mr. Nowlin: Mr. Vorenberg, we are not wasting any time. We are trying to get him to answer the questions.

Mr. Vorenberg: Well, let me point out to you, you keep comparing personnel in the personnel analysis, [2097] but what you are trying to find out is how space utilization figures are derived and the witness has tried to indicate, on page 11 of 91, you got 14 people who are, as I understand it, all to be billed—all to be included in Lawrence's space utilization, but if you keep coming back—

Mr. Nowlin: That is reflected in the figures that we have been talking about.

Mr. Vorenberg: No. They are not. You come back to 91. You say seven people. He made that point, and I just wonder if anything is being gained by mixing these two things together.

Hearing Examiner: Well, Mr. Nowlin, have your questions had any relation to page eleven of Exhibit 91?

You excluded that from your question.

Mr. Nowlin: I would like for the witness to tell us what significance the figures on page 11 of Exhibit 91 have, in the light of the questions that are being asked.

The Witness: Well, sir, I made reference to page 11 a moment ago, myself.

Hearing Examiner: I know you did.

The Witness: In which it states that the joint functions would require 14 employees, as compared with a total of 18 employees on an independent basis, and again, I have to repeat that you have to look at these space requirements on a total basis. You cannot pick out particular [2098] individuals or particular departments. In this particular case, we also have to take in consideration not only Lawrence Gas but North Shore because of this joint operation.

XQ. Well, Mr. Simes, looking at page 11, as I interpret this, you are in effect saying there is a difference of four employees. A. Yes, sir.

XQ. Four less on a combined basis than on the independent company basis. Isn't that correct? A. Yes, sir.

XQ. Well, doesn't that require less space? A. Depending upon where the combined operation was performed. As I mentioned to you before, an approximate increase of 2,200 square feet would be required in the Lawrence Gas Company for this joint operation.

XQ. Now, Mr. Simes, on the basis of the figures we have

obtained from different places in the reports here, would you accept these, subject to check:

The Lawrence, on an actual per books basis, shows 123 full time employees and 22 part time employees, and they pay a rent of \$37,100.

On a pro forma combined basis, they have 139 full time employees, and the rent increases to \$61,300.

Now, if we compute the increase of cost, it [2099] is about \$24,200 rent increase, and there is only a difference of a few employees.

Now, why is there such a substantial increase in the rent cost on a pro forma basis?

Mr. Vorenberg: You are talking about, now, actual to pro forma independent?

Mr. Nowlin: Actual pro forma combined.

The Witness: That was a rather long and complicated question. Can it be broken down? Can I get it back again.

Mr. Nowlin: Yes. I will give you the factual information.

The employees, on a per books basis were 123 full time and 22 part time. That is a total of 145 and I would assume that some of these part time employees must have to have space, don't they?

The Witness: Well, by part time, you understand this meant that, not in the sense that you go out and hire an employee to come in and work three hours a day. By part time is meant that it is jointly used by the electric and gas company. He is used all day.

By Mr. Nowlin:

XQ. He would have to have space. A. Yes.

XQ. To conduct his functions. [2100] A. Yes, sir.

XQ. You have 123 full time employees and 22 part time.

A. What was the figure—the first figure?

XQ. 123 full time and 22 part time.

Just for present purposes, let's allocate, say, ten of those 22 to gas. That gives you 133 full time employees, does it not, per book; or if you want to use another allocation, it is okay. Would you state, with 123 full time, how many of those part time you think are properly allocatable to the gas?

Well, those are the actual figures.

On a pro forma combined basis, you show 139 full time employees. That is an increase of 16 actual full time employees without giving any effect to the 22 part time employees.

It seems to me they would balance out to pretty close to the same number of employees, on actual basis and on pro forma combined basis.

Do you agree with that? A. No, sir. It would depend upon how the space of this—before I complete that answer, may we tie down what figure—where you are picking these figures up, so we are all together?

XQ. Page 213, for per book figures; and Exhibit 58-A [2101] page 18 on Exhibit 91, on a pro forma combined basis. A. Yes, sir.

Now, again, I say that in determining the space requirements of the pro forma independent or the pro forma combined operation for the Lawrence Gas Company, we determine the space requirements for these 139 people.

XQ. Now, how does that compare with the 123 full time and the 23 part time on an actual basis? A. Is there a question pending?

(The pending question was read by the reporter)

The Witness: As I stated before, I do not have the actual space utilization and the split of that space between electric and gas in the Lawrence building. But again, I want to point out that you have to, when you are talking about the total employees, you are talking utilization groups. You are talking garage people. You are not

talking any longer about the one general office space on Essex Street over in Lawrence.

Again, you have to look at this thing in total.

Now, so far as the space requirements, as I performed it for the 139 employees, let me restate that. So far as the space, as I performed the independent operation, there would be a requirement of approximately 24,000 square feet for the Lawrence Gas Company.

XQ. What was that figure on the combined pro forma [2102] basis? A. On a combined, pro forma basis, it was a reduction of 1,000 square feet for moving from independent to combined operation and an increase of approximately 2,200 square feet for the joint Treasury and Accounting operations.

Mr. Nowlin: Now, Mr. Examiner, could Mr. Gishman make a statement of information which we would like to get here, on the record?

Mr. Vorenberg: In what capacity? As a witness?

Mr. Nowlin: I will write it out and state it.

Mr. Vorenberg: This is a request for information?

Mr. Nowlin: A request for information.

Hearing Examiner: Yes. Let him make that request.

Mr. Gishman: Mr. Examiner, throughout this examination the witness has been telling us that he has for each case, estimated the space requirements for the pro forma organizations. It is our duty here to try and determine whether or not those estimated space requirements are sound.

We have no underlying data whereby we can make such a determination; nor do we have the underlying data for the actual per books space being occupied right now; nor do we have the per books information regarding how the various rentals were determined and how they were allocated [2103] between gas and electric. Before we can perform our duty, and make these determinations, we have

got to have this underlying data and we are not able to get it by questioning the witness and we would like counsel for the respondents to supply us with the underlying data that will permit us to make these comparisons.

Hearing Examiner: Well, would it not be a good idea for you gentlemen—for counsel—to have a conference and see what you can work out along the line suggested by Mr. Gishman?

Mr. Vorenberg: I am frankly quite confused by Mr. Gishman's statement. I would not know what to give him on that basis, so I would be delighted—

Hearing Examiner: It is too general and I think you gentlemen should have a conference.

Off the record.

(Discussion was had off the record.)

Hearing Examiner: On the record.

In view of my suggestion, we will recess at this point until 1:30 this afternoon.

(Whereupon, at 12:20 o'clock, p.m., the hearing was recessed until 1:30 o'clock, p.m., on the same day.)

AFTERNOON SESSION

(1:30 p.m.)

[2104] Hearing Examiner: Let us come to order.

Mr. Vorenberg: Mr. Examiner, as you requested, we have talked informally with the staff to try to clarify the scope of their request. Certain ground was covered in the rental area in relation to Lynn this morning.

Mr. Gishman has given us a request for information—in particular, the amount of space and the price for each of the pro forma rentals and where there have been adjustments in space and dollars in going from the independent to the combined, I understand you would like that.

Is that right?

Mr. Gishman: Yes.

Mr. Vorenberg: Number Two, in the actual organization, whenever the gas company paid rentals to the electric companies, how much space was involved and how the amount was determined, and we will undertake to supply that for the other seven companies.

Hearing Examiner: Very well. Thank you, Mr. Vorenberg.

Whereupon,

JAMES F. SIMES

resumed the stand and was further examined and testified as follows:

[2105] *Cross Examination (Continued)*

By Mr. Nowlin:

XQ. Mr. Simes, you took us on a Cook's tour of the Lynn office building. I wonder if you would do the same thing for us with the properties jointly occupied by Suburban and Mystic?

What is the character, for example, of the building and is it susceptible of re-arrangement for joint occupancy or just what is the situation with respect to Mystic and Suburban. A. Well, in overall, Suburban owns the Pleasant Street general office in Malden; also located at Center Street is a service order center and garage, which is owned by Suburban. Suburban leases certain property which is jointly occupied by Suburban and Mystic Valley, In Melrose, on Main Street, there is a store jointly occupied. In the town of Medford, on High Street, there is a store jointly occupied. In Everett, on Broadway, there is also a store jointly occupied and in Revere, there is a store jointly occupied. In Winthrop there is a store owned by Suburban which is also jointly occupied by Mystic Valley.

XQ. Now, does Mystic Valley own any of those facilities

that you described? A. Does Mystic Valley own any of those facilities?

[2106] XQ. Yes. A. No, sir.

XQ. So that in all of the arrangements, joint arrangements between Suburban and Mystic, Mystic is the lessee, is that correct? A. Well, I want to tie the use of that word down.

There are some instances where Suburban Electric leases property and then in turn, charges Mystic Valley for the joint use of that property.

XQ. Is that leased on written arrangement, or just an oral arrangement? A. Do you mean the arrangement between Mystic Valley and Suburban?

XQ. Yes. A. I believe it is a written arrangement between Mystic Valley and Suburban, in those instances.

XQ. Now, going to the office building, what kind of a building is it? In what condition is it? A. General office building in Malden, is a five-story brick structure.

XQ. Well now, does Mystic and Suburban occupy jointly, portions of the same floor in that building? A. Yes, sir. They do.

XQ. What departments would that be in? A. The customer accounting; machine accounting; plant [2107] accounting; general accounting.

XQ. The E & A occupies separate floors—a separate section of the building? A. Did you say occupies separate floors?

XQ. Separate floors or separate portions. A. Separate portions; not necessarily separate floors.

XQ. So that there is no commingling of activity among the executive and administrative functions of the two companies? A. May I have that question again?

(The pending question was read by the reporter)

The Witness: Well, certainly, in the Treasury personnel, the supervisory Treasury personnel, I am speaking of,

who are jointly—who provide supervision of the joint operation, that would be space that you would consider combination space.

XQ. Now, do you know the total amount of floor space that the gas company occupies or uses and the total amount of space that is used by the electric company and the total amount of space that is used by the central organization in that building? A. By central organization, you are speaking of the gas division?

XQ. Gas Division. A. I don't have that readily available, Mr. Nowlin, but I believe that is to be included in the data that is to [2108] be supplied.

XQ. I see. Do you know whether or not, Mr. Simes, the Gas Division and the Mystic Valley Gas Company occupy a major portion—together occupy a major portion of the office building? A. Do Mystic Valley and the Gas Division—I am trying to make sure I have your question.

XQ. Occupy a major portion of the building? A. No, sir. They do not.

XQ. Do you know what the carrying value of Suburban investment in this office building is? A. No, sir. Not off-hand.

XQ. Did you make any study or estimate of the rental cost that Suburban would incur if it were to move out of the building into new quarters? A. This again, is similar to what I explained earlier, in our overall evaluation. We considered every possible alternative to the point of determining which would be the most economical utilization of space, both for electric and gas companies in the event of severance, and as I stated in the situation with Lynn that we were discussing earlier this morning, we did determine that it would be more economical for Suburban to stay where it is, and as I recall, we determined that part of the space—that part of the space of the Pleasant Street

office in Malden—could be rented to [2109] outsiders and we included that in our calculations and in our estimates.

XQ. How much could you get for that rental, Mr. Simes?

A. How much did I get for that rental?

XQ. Could you get for that rental, or did you estimate you would get for the rental? A. We used the same overall average rental figure of \$2.75 per square foot that we used in projecting what the rental cost would be for any of the companies going out to obtain space.

XQ. Now, how does the figure that you obtained for renting space to outsiders compare with the rental, to the rental payments paid by Mystic Valley? A. That again, Mr. Nowlin, will be related to the data on the actual space and the dollars which Mr. Gishman has requested, and which Mr. Vorenberg has indicated we would supply.

XQ. Mr. Simes, would it not be much more economical from the viewpoint of Suburban to stay in its present quarters together with Mystic than it would be to have Mystic move out and rent space to outsiders? A. Mr. Nowlin, I have stated several times previously, I believe, that I do not consider it a workable arrangement to have an independent gas company and an independent electric company to share the same quarters.

[2110] XQ. How about the same building? A. Again, I am speaking of the undesirability of sharing such joint quarters.

XQ. Well, at the risk of repeating, Mr. Simes, just what specific factors underlie that conclusion of yours?

Why shouldn't it be practical as long as they can separate different floors or different areas of the building? A. I know, as a practical matter, of no separated electric and gas companies, that do function under the same building. I know of one that tried it and it did not last a year.

XQ. Do you know why? A. I don't know of any—well, I have gone through this before. The company that owns

the building is going to by nature—human nature—take advantage of the fact that it is the owner of the building. It is going to take the most desirable space in every instance; it is going to have the most desirable facilities at its command for its use. This goes on and on through every department that you try to put together.

I have, in my own experience in the utility industry, I know of no independent gas operation and independent electric operation, that are using joint facilities of a general office and display floor nature.

I know of none.

[2111] XQ. Well, that may be purely a matter of choice. Perhaps, for a practical matter, what specific reasons are there why the gas and electric company—Mystic and Suburban—could not continue— A. I gave you one specific reason; that the gas company would in this particular case where the electric company owns the building, the gas company, in trying to function, would find itself being given the lease desirable space; the least desirable service.

XQ. Is that the present arrangement? A. No, sir. They are working under a joint operation. You have, in the case of Mystic Valley and Suburban, where there are people performing joint functions, you have that in particularly the Treasury and Accounting area.

Hearing Examiner: I would like to explore this field; Mr. Nowlin explored it last Friday.

Reverting at this moment, to the Holding Company Act, the Holding Company Act gives the Securities and Exchange Commission, as I understand it, functions of viewing the consuming public as well as the rights of stockholders. What do you think the consuming public will think of this suggestion, that two companies occupy the same building, side by side? Have you given any thought to that?

A. Not even side by side, your Honor. This is one build-

ing where they would both have a sign up—[2112] Mystic Valley Gas Company and Suburban Electric Company.

Hearing Examiner: Well, however you demark the area, one occupies and the other, would the consuming public regard an arrangement of that sort as being a bona fide separation of these functions, and would they regard it as a sort of a subterfuge?

Have you given any consideration to those ideas?

The Witness: Yes. There is no question but what the public being, as usual, totally unaware of what has gone on in the separation which could possibly be ordered by the Securities and Exchange Commission, would think they are still one company under the one head, in the one building. I don't think that from the standpoint of either one of the companies, the electric or the gas, it would be good for their public relations.

Hearing Examiner: Thank you, sir.

By Mr. Nowlin:

XQ. Mr. Simes, the New England System owns both the gas and electric, does it not? A. Yes, sir.

XQ. If they segregated and separated and had different operations, until they disposed of them, the New England system would still own both of them, would it not?

Mr. Vorenberg: I don't understand the question.

The Witness: I missed part of your question. I think your [2113] voice trailed a little bit.

XQ. They jointly own them today. They will jointly own them until they are disposed of, if they are required to do so. A. Yes, sir.

XQ. Don't you think the New England System has no obligation to its own investment, and to its own consumers to try to set up as efficient and economical a basis for operating these two divergent interests, as could possibly be?

Mr. Vorenberg: Mr. Examiner, in the first place, I find that question, if it means what I think it means—

Mr. Nowlin: Read it back.

(The pending question was read by the reporter)

Mr. Vorenberg: It has in it all sorts of legal and other conclusions which it seems to me are inappropriate for this witness to classify.

Mr. Nowlin: Strike the question. I will ask the question again.

XQ. Assuming that the eight combined gas companies are segregated and that they are still under common control with the electric, don't you feel that the New England Electric System has an obligation to its own investment and to its own consumers, to see that these two interests are set up on an economical and efficient operating basis?

[2114] Mr. Vorenberg: How can they both be segregated and under common control? The question makes no sense whatsoever.

Mr. Nowlin: Don't you know when you segregate these companies, and you set up a separate holding company, you still are going to control it?

Mr. Vorenberg: I don't know what is going to happen.

Hearing Examiner: The objection is sustained.

I sustain the objection.

I interpret those remarks of Mr. Vorenberg as being objections to the question. I sustain the objection.

Mr. Nowlin: Mr. Vorenberg has made no objection. I don't know what the grounds would be.

Mr. Vorenberg: Originally, I objected to your first question, Mr. Nowlin, on the ground (a) I did not know what it meant.

(b) It had in it a legal conclusion.

When the question was re-read, it seemed to me to make no sense at all because of this conflict between segregated and under common control, but my original ground of objection of asking this witness to make speculations as to

the possible ways and legal forms in which separation may take place, still stands.

Mr. Nowlin: I did not make any such assumption.

Hearing Examiner: Well, try again. I sustain the objections to this last question, as the one that you [2115] withdrew.

By Mr. Nowlin:

XQ. Mr. Simes, isn't it a fact that by moving the Mystic Valley operations out from the present joint arrangements with Suburban, will cause Suburban a loss of \$56,700 annually? Page 1218 of 58-B. A. That is correct.

XQ. Now, isn't it also a fact that if Mystic Valley goes out and rents new facilities, that Mystic Valley will incur an increase over what it pays in rental to Suburban? A. In total, there is a reduction in the rental costs to Mystic Valley.

XQ. From the system viewpoint, there is a net loss of several thousand dollars, is there not, of the system? A. We no longer have a system, to speak of. Under independent operations, there is an increase on Suburban and a decrease on Mystic.

XQ. Now, in order to avoid losing \$56,700 annually, would not Suburban ordinarily resort to every effort that it could to prevent that loss? A. Why certainly, I believe they would; and in my projection, I made an estimate of space in the Malden office, that would be rented—could be rented—to outsiders.

XQ. That is exclusive of the \$56,700 net loss, is it not? [2116] A. The \$56,700 is the net loss after giving credit for the rental of space to outsiders in the Malden office.

XQ. So that Suburban—you ordinarily would think, would exert every effort it could unless there was some compelling reason for it, to prevent that loss, would it not? A. Yes, sir. And I have given consideration to that.

XQ. And as far as I have heard, so far, the only compelling reason is that you say you know of no company where there is joint operation in the same building?

Are there any other factors that you know of? A. Well, as I said, I have said several times, that as a practical matter, it is not workable and as was stated a few minutes ago, from the standpoint of the public, there would be certainly, considerable confusion as to whether there was a separate gas company and a separate electric company, which would do damage, conceivably, to both companies in their public relations.

XQ. Well now, as to your point that you previously made, regarding the assignment of better quarters for the electric and for the gas, isn't it possible that since both of these operations are now under common control of NEES, that long term leasing arrangements could be worked out now that would obviate any discrimination as between one or the other?

[2117] Mr. Vorenberg: Mr. Hearing Examiner, again I just raise the question as to whether we are proceeding under some fundamental confusion in Mr. Nowlin's mind or perhaps in my mind.

Are you talking, Mr. Nowlin, about a joint occupancy or some remodeling of the building; because if so, I suppose the first question asked Mr. Simes is whether there would be room for these two companies if they remodeled.

If you are talking about joint occupancy that is another thing.

Mr. Nowlin: You are talking about Lynn. I am talking about Suburban and Mystic Valley.

Mr. Vorenberg: I am talking about Suburban and Mystic Valley. You jump back and forth, from joint occupancy to something else.

(The pending question was read by the reporter)

Hearing Examiner: Well, is there any issue present in

this proceeding at the moment, as to whether NEES has common control?

Mr. Nowlin: I don't know how there could be any question about that.

Mr. Vorenberg: No, your Honor.

Hearing Examiner: How do you view this? You say there is?

Mr. Nowlin: Certainly there is no question.
[2118] They are all under the NEES system at the present time.

Hearing Examiner: But under the separation of the gas companies, is there an issue here, clearly defined, that as separated, the gas companies will still be under common control of NEES?

Mr. Nowlin: Well, Mr. Examiner, it seems so obvious to me, that every other case we ever had, that if the gas and electric can be kept together, the company is given a year, or maybe two years, to dispose of the gas, so that the last two years, when it is completely under domination and control of the same interests, that if the holding company has the interest of its investors and consumers at heart, it should attempt to set up the most efficient and economical method these operations could have, as long as they sever control.

Hearing Examiner: Do I understand from your examination that the Division of Corporate Regulation thinks it is a practical solution to keep the separated gas companies housed under the same roof, as the NEES system?

Mr. Nowlin: We are exploring the item to see. The issue here, Mr. Examiner—

Hearing Examiner: Well, I know you have been exploring it but have you explored the idea what the consuming public will think of an arrangement of that sort?

Mr. Nowlin: These fellows are experts in that field.
[2119] I am asking what specific reasons they have.

Hearing Examiner: I am the only one that asked if that has been explored so far. I want to get that on the record; that I think it ought to be gone into.

Mr. Nowlin: Let me explain one further point, Mr. Examiner. The main issue here is whether or not there would be a substantial loss of economy if you were to sever the gas and electric operations completely from the system.

In other words, if you take the gas over here and put them out of the system, would there be a substantial loss of economy? It is obvious that you can set up the most expensive route that you can think of to separate those gas and electric properties, and therefore, run up the losses. That is our function here today—the last three or four days—as we see it, is to try to ascertain just what the reasonable alternatives are, and what are the real losses that would be accomplished—not those which you might set up on a costing and putting basis.

That is the reason I am exploring these various items, trying to test the—

Hearing Examiner: I think the argument that has ensued largely between you and me, has obscured the pending situation, and I am going to again subside, and leave my ideas on the record, and you may resume your cross examination, [2120] and if Mr. Vorenberg has any objection, I will hear them.

The Witness: May I add one thing? Excuse me.

Mr. Vorenberg: The question I was raising, Mr. Examiner, was on a somewhat different point.

That is, I think it has come up a number of times, both on Lynn and again here, that it has not been perfectly clear, I think, in the record, when Mr. Nowlin has asked Mr. Simes whether it would be possible for these companies to stay under one roof, whether he was talking about their being intermingled. In other words, having joint operations; or whether he was talking about there being some

method of physical separation and that is my concern, as to how the record is going to look, if the questions are not clear. It seems to me, if you have a physical separation, the first question is whether there is enough room and I think that has gotten obscured here. That is the only reason I interjected myself.

Hearing Examiner: Let's return to the cross examination and if you have any objections, I will be glad to hear them.

Mr. Vorenberg: I have no objection.

Mr. Nowlin: Now, is there a pending question?

(The record was read as follows:

"Question: Well now, as to your point that you previously made, regarding the assignment of better quarters for the electric and for the gas, isn't it possible that [2121] "since both of these operations are now under common control of NEES, that long term leasing arrangements could be worked out now that would obviate any discrimination as between one or the other?"

Hearing Examiner: In recalling Mr. Nowlin's argument with me, I think that question is all right. Is it possible to do that, Mr. Simes?

The Witness: One of the very important determining factors in this is the fact that under independent operation, and with the space requirements of the independent companies, no longer having joint operations, there is not enough space in the Malden office to house the operations of the two independent companies.

By Mr. Nowlin:

XQ. I am not talking about the independent companies. I am talking about the pro forma combined. A. Even under the pro forma combined operation.

XQ. Do I recall your testimony on last Friday to the effect that you felt that there was enough space there for the Mystic Valley Gas Company, pro forma combined oper-

ations, together with the central organization, but that you had not considered that aspect of the situation of selling the building to the gas company? A. Now, you are speaking of just the gas company alone. A moment ago, I understood we were speaking of [2122] the electric company and the gas company.

Mr. Nowlin: Let's try this again.

[2123] XQ. Am I correct in my understanding of the previous testimony that you felt that there was enough space in the office building at Malden for Mystic Valley Gas Company and for the projected central organization and in response to a question as to why they did not consider selling the building to the gas instead of the electric retaining it you said you had not considered that; is that correct? A. No, sir, I don't think that is quite correct. For the purpose of clarifying this situation, I believe I stated that the central organization was not considered to be placed in jointly with any one of these gas companies, primarily because we did not know what the corporate setup would be or where the central location would be located. We pro formed the space requirements of the central organization and priced it out at our average \$2.75, without consideration of where it would be located because we had no idea of where it could be located.

XQ. Let me ask you, then, is the office building in Malden sufficient to house the central organization and the Mystic Valley Gas? A. This is under the assumption now that—Well, I don't know what the assumption is.

XQ. The building—I said is the building is sufficient. A. It is owned by Suburban Electric.

[2124] XQ. Is it sufficient to house the central organization and the gas organization?

Mr. Vorenberg: You are assuming that Suburban moves out?

Mr. Nowlin: That is right.

The Witness: Well, number one, that is, of course a big assumption.

Mr. Vorenberg: Is your question, Mr. Nowlin, whether it is physically possible or whether there would be any savings in doing it?

Mr. Nowlin: I will get to the savings. Mr. Examiner, may I get an answer to one of my questions?

Hearing Examiner: I think the question was is there adequate space in that building for the central organization, as well as for Suburban. Is that right?

Mr. Nowlin: No, no, for the gas company.

The Witness: Just on a straight square foot comparison, the requirements—Let me state it another way: On the basis of a straight square foot comparison, there is about 37,000 square feet available in this Malden office. Without regard to arrangements, rearrangements, the approximate requirements for the Mystic Valley Gas Company and central organization would be just approximately 36,000 square feet. Now, this is without consideration of arrangements of space or whether or not this is—this is a straight [2125] calculation of square footage as it stands right now.

By Mr. Nowlin:

XQ. Do you know whether or not it would be practicable to rearrange the office building so that it could be jointly occupied by the central organization and the Mystic Valley Gas Company? A. I am trying to visualize the physical layout of this building, Mr. Nowlin. I would say it is very difficult to say right now whether or not it could be rearranged to satisfy the space needs of both the central organization and the Mystic Valley Gas Company.

XQ. Now, as I understand it, you also made a study of the estimated severance cost to the electric company, didn't you, as a part of this overall study? A. Yes, sir.

XQ. Did you, in the course of your study, make any

analysis or detailed study to determine from the system viewpoint, overall system viewpoint, if it would be more economical for the gas companies to acquire the building from Suburban and have Suburban move out, rather than have Suburban retain it and have the gas companies moved out? A. In our determination of these space requirements, as I have stated before, we have considered the practical alternatives. In this particular instance, I do not recall—Again you realize that this has been over a year since my [2126] consideration and judgments on this problem—I do not recall the specifics in regard to your question that you are asking. I do know that in arriving at our conclusions we considered every practical alternative, as I think has been illustrated time and time again. In one instance that immediately comes to mind, the case of the building that is leased by Merrimack-Essex in Salem and jointly used by Merrimack-Essex and North Shore. There my recollection is that we moved both of them out to obtain the most economic rental situation for both the electric and the gas.

XQ. I was going to ask you about that situation. Are there any other reasons or are there any reasons other than what you have previously indicated about the dislike of having two utility companies in the same building? Are there any impelling reasons why North Shore and Merrimack both had to be moved out of their present quarters and obtain new quarters? A. Yes, sir. As I have mentioned, the fact of the impact on the public, also the fact of the space requirements for independent operation of the gas and electric companies.

XQ. Well, now, isn't it a fact, Mr. Simes, that your projection in the separation of the operation of the gas and electric companies is in the overall about the most expensive arrangement that they could have had? A. No, sir.

[2127] XQ. Can you name any instance where you have effected economies by your projections? A. In the instance

which I just mentioned, the case of the general office and displaced space jointly used by Merrimack-Essex and the North Shore Gas Company in the Salem Office. We have, in that instance, moved the North Shore Gas Company out to other quarters. In the examination of the building, there was approximately 3,000 square feet that could be rented to an outsider when North Shore vacated, and, therefore, partly offsetting the loss of rent revenue from North Shore. However, on determining the space requirements of Merrimack-Essex after severance, I determined that it would be more economical for Merrimack-Essex to give up its lease in the Salem office and rent other quarters. This overall comes out as a more economic situation than leaving the electric company in the quarters which are now jointly occupied by both Merrimack-Essex and North Shore.

XQ. Does that mean that you would have recommended that that change be made from the viewpoint of efficiency and economy even though there were no separation between the gas and electric operations? A. No, sir. Under joint operation they are much better off in the space where they are right now. But once you go to separation, you need greater space requirements.

XQ. Did you, in the course of your overall study of [2128] the NEES System find any instances where joint use of facilities, where you felt that economies could be realized or increased efficiency obtained by voluntary change of some of these facilities? A. No, sir, I did not.

XQ. In the course of your studies, for the purpose of the Ebasco report, what particular NEES officials did you check with, consult with regarding your estimates of the changes on the joint facilities? A. I don't know whether you can call them officials or not, Mr. Nowlin. I spoke to one of the lawyers to obtain information on existing leases; I spoke to accountants at the local organization level to determine the basis of allocation of jointly used space, in

order to satisfy myself that the allocations were fair. I would say that was the extent of it.

XQ. Do you know who in the NEES system was responsible for leasing and arrangement of joint facilities?

A. So far as the leasing of property by NEES companies from outsiders, I can't say that I know who is in charge. I went to the individuals, as I mentioned before, who would have copies of the lease arrangements so that I could examine them.

XQ. Well, in making your projections of the inter-company rental charges, did you consult with any NEES officials [2129] in obtaining their advice or views as to what arrangement they thought might be advisable or preferable?

A. No, sir, not in one instance.

XQ. Directing your attention for the moment, Mr. Simes, to page 1018 of Exhibit 58B, do you know how the space rental payment by Merrimack, aggregating \$11,800 was arranged—what the basis of the charge is? A. This is in reference, on page 1018, to the statement that North Shore rented space at Beverly and Gloucester?

XQ. That is right, property of North Shore. A. Yes, sir, that was for space on Maine Street in Gloucester where Merrimack-Essex and Suburban jointly shared office space, for which Merrimack-Essex paid to North Shore Gas Company \$5,400, office space on Cabbot Street in Beverly, which was owned by North Shore Gas Company and which was jointly used by Merrimack-Essex and North Shore, for which Merrimack-Essex paid North Shore \$5,000. Down at the River Street gas property there were certain lands used by Merrimack-Essex for storage of miscellaneous equipment, for which they paid North Shore \$600.00, and another item in that plant for a coal shed for which they paid North Shore \$800.00, for a total of \$11,800.

XQ. What was North Shore's rental expense for these

properties? A. These were properties that were owned by North [2130] Shore.

XQ. I don't believe you have told us how it was determined that Merrimack would pay \$11,800 for this space. A. Oh, that was, again, a joint use of properties which was allocated between the two users, based on a square foot occupancy.

XQ. Do you know the respective square footage occupied by both? A. Offhand I don't, sir, but that will be included in the data which we have agreed to submit to you.

XQ. Now turning to your study of the executive and administrative expense, with what NEES official did you confer or consult with regard to those projections? A. The only conferences that I recall were in the initial determination of the duties and responsibilities of the existing executive and administrative staff. So far as my pro forma executive and administrative personnel requirements, to my knowledge in my part of the study I did not consult with any NEES officials. Of course at the conclusion of the study, the entire thing was presented to our client, but in my determination and in my development of the requirements for the pro forma organization, as I have stated before, we set this up on the basis of what was required to operate a gas company.

XQ. Did you make any preliminary written report to Mr. [2131] Quig or anyone else of your estimates of the executive and administrative expenses, either on an independent company basis or on a pro forma combined company basis? A. No, sir, I don't recall any interim report. We were at all times in close contact with Mr. Quig in discussions, in discussing with him our evaluations, our judgments. No, I don't recall that there was any preliminary report submitted.

XQ. You mean by that that when you went to discuss the problems with Mr. Quig that you didn't have any pro forma

executive staff projected? A. Well, Mr. Nowlin, in the development of a study like this, where you are in the process of developing a pro forma personnel organization for independent companies, we would sit down and discuss the company by company, one company at a time, and I would outline to him the facts that I had gathered as to the size of the company, what I believe would be the requirements for the executive and administrative staffing of this organization. There were times when we got into differences of opinion between Mr. Quig and myself, but these were resolved without having the need for an interim report, but it was a continuing process of developing, of evoking this entire picture.

XQ. I assume that you would give a similar answer to your study on the inter-company rental arrangements, that you [2132] prepared no interim report on that? A. There was no interim report, no, sir.

XQ. Now directing your attention to Exhibit 58A, pages 526 and 527, under production, distribution and so forth, it appears that North Shore performs certain services for Merrimack for which North Shore billed Merrimack a total of \$12,800 in 1958. Since it is assumed that these services will be discontinued after the severance, why doesn't North Shore effect a savings to offset its loss of \$12,800 income from Merrimack? A. May I have that question again, please?

(Question read)

The Witness: In the case of the \$5,000 indicated on page 527, where it says that North Shore personnel serviced and maintained certain transportation equipment of Merrimack at the company's Beverly garage, there were vehicles which were jointly used by both North Shore and Merrimack-Essex under the pro forma independent operation. These personnel will still be required to service the vehicles

of the North Shore Gas Company. Therefore there would be no savings in that particular item.

By Mr. Nowlin:

XQ. How many vehicles were involved for each? I assume that is all automotive equipment, Mr. Simes; is that right? A. Yes, sir, passenger cars and trucks. There were five vehicles of Merrimack that were jointly used and in addition [2133] to that, the vehicles of Merrimack-Essex which operated out of the Beverly area were also serviced by the North Shore Gas Company.

XQ. How many, do you know? A. I don't have that figure just offhand. This is primarily the five jointly used vehicles.

I believe I misspoke. I think it was six vehicles, rather than five.

XQ. How many for North Shore? A. I don't follow your question.

XQ. How many vehicles all together were serviced from the garage? A. In that particular garage, I don't know offhand, sir. I mentioned the six that were jointly used, which were serviced by the North Shore Gas Company in the Beverly garage.

XQ. If you don't know how many vehicles are serviced, Mr. Simes, how do you know how many personnel will be required to service the vehicles on a pro forma basis? A. I said I didn't have the figure available right now. Obviously when I made this calculation and this estimate, I knew how many vehicles were being serviced in that particular garage. The figure I have with me right now, for example, is only a total for the vehicles of North Shore Gas Company, which is 33, but the detail that you are asking me is how many are in the Beverly garage and how [2134] many may be elsewhere. That I don't have right with me.

Mr. Nowlin: Could you supply us with that information?

Mr. Vorenberg: We would be glad to.

By Mr. Nowlin:

XQ. How about the remaining \$7800? A. The \$7800 that is indicated on page 526 is for the processing and executing of the meter orders, as it states here, for combination customers. Now under severance, you still have the same workload, you still have to process those customers, you no longer can process the electric and gas customers together.

XQ. Well, it wouldn't cost the exact same amount, would it? A. The allocation of the billing charges—this is, as you realize, a billing by North Shore to Merrimack. Now the basis of that allocation, as I recall it, was based on—I believe it was based on the number of customers. Now, when they are segregated, you still have the same number of gas customers, the same number of electric customers, which today even are combination companies. They take both electricity and gas. So the allocation would remain the same, the cost would remain the same.

XQ. Do you know whether or not there are any other similar instances of this kind in Exhibit 58A? [2135] A. Off-hand I don't know, sir.

XQ. Let's look at Exhibit 91. Under production, utilization and so forth, we note that under combined operations the estimated increase in expenses in this category drops only \$9900 as against the increase shown under independent operation. As I understand it, the drop of \$9900 represents the elimination of the utilization engineer by Mystic under combined operation. I think that is Respondent's Exhibit 91A, page 3. And all of the other items of increase remain unchanged; is that right? A. We are speaking now of the decrease from \$55,100 under independent operation to \$45,200 under combined operation?

XQ. That is right. A. A difference of \$9900. That is exclusively for the utilization engineer who under inde-

pendent operation was included in the Mystic Valley payroll and under combined operations is included in the Gas Division of the Central organization, as shown on page 8.

XQ. So that, aside from that item, everything else remains the same? A. I believe that is substantially correct, sir. The \$9900 applies specifically to the utilization engineer.

XQ. What consideration, if any, did you give to savings in production, utilization and so forth that might be effected [2136] under combined operation as distinguished from independent company operation, other than the savings of \$9900 shown for Mystic? A. In pro forming these organizations, the production, distribution, and utilization groups under independent operation or under combined operation would have to perform the same duties, the same functions of servicing the customers.

XQ. Now, Mr. Simes, throughout the reports here I notice reference to payroll taxes for the gas company. Would you tell us what that is and who pays it and who collects it and so forth? A. That is primarily the Social Security tax.

XQ. That is not a state payroll tax? I don't want to ask it if it is something you are not familiar with. A. I am just trying to recall. The payroll taxes included the Social Security Tax and the Unemployment tax. Those are the two items.

XQ. Those are paid to the state or to the federal government? A. The federal government.

XQ. Would you be a little more explicit about how they operate? A. In what manner? I don't quite follow you.

XQ. Well, take a concrete example. An employee of Mystic Valley Gas Company, for example, what does the payroll [2137] tax mean to him? A. It means a deduction in his check.

XQ. He contributes toward the Social Security or does

the company contribute toward the Social Security?
A. Yes, sir.

XQ. Is that the same way with Unemployment Compensation? A. No, sir. My recollection is that the Unemployment is solely company contribution.

Mr. Nowlin: Would counsel mind making a statement on the record about how this works?

Mr. Vorenberg: We would be glad to. You mean at this time?

Mr. Nowlin: If you know.

Mr. Vorenberg: I would rather refresh my recollection on it and make a statement at a later date.

Mr. Nowlin: Mr. Examiner, I think that is all we have of this witness at the present time. I might think up a few more questions.

Hearing Examiner: Well, the witness is excused.

(Witness excused)

Mr. Nowlin: May we have a five minute recess?

Hearing Examiner: Yes.

(Short recess)

Hearing Examiner: Let's come to order.

Mr. Nowlin: Mr. Quig.

[2138] Whereupon,

ROBERT S. QUIG

was recalled as a witness and having been previously duly sworn, was examined and testified as follows:

Hearing Examiner: Your name, please.

The Witness: Robert S. Quig—Q-u-i-g.

Cross Examination

By Mr. Nowlin:

XQ. Who conducted the negotiations on behalf of EBASCO with NEES officials regarding the Ebasco study and report? A. I did, sir.

XQ. With what officials did you confer? A. Mr. Irwin Moore, Chairman of the Board; Mr. William Webster, Mr. Robert Krause, Mr. Harry Hanson, Mr. Harold Dalbeck.

XQ. What assumptions or instructions were you given as a guidance for the conduct of the Ebasco study? A. I would say, Mr. Nowlin, generally to do, putting it in very summary form, to do any and all things necessary to determine the effect of divorcement of these gas companies.

XQ. Were you requested to make any specific assumptions? In other words, who suggested the year 1958 as a typical year? A. I think I can help you on that this way: It was in April of 1959—that is two years ago now—it was the latter part of April. The latest available accounting data [2139] for these companies was the year 1958. The books had been closed; the reports had all been audited by Lybrand, Ross Brothers and Montgomery. The reports of all of these companies, both gas and electric, had been made available to the Department of Public Utilities, the Commonwealth of Massachusetts. In addition, studying the situation at the then time with the NEES people, in April, 1959, in view of the facts of the availability of data, I just mentioned, in view of additional facts that I set forth, I recall early in my direct testimony, as to the rationale with respect to 1958; namely, that there was no general national upset condition, there was no upset condition in New England, and particularly, and I think this is important since we are dealing with revenues and expenses from a technical point of view, the year 1958 was a year that approximated the normal degree day deficiencies in that area of these companies. Now that is highly important, as I am sure that your technical advisors can inform you, in appraising the results of gas company operations.

XQ. Did the NEES officials request you and your associates to make an independent evaluation or study of the NEES system to determine what supplements or what

functions could be curtailed? A. Well, certainly the study that we made, Mr. Nowlin, was to be completely independent and the judgments that we [2140] arrived at were our own judgments.

XQ. Well, now, what I am trying to ascertain is whether or not you made a study in the nature of an expert efficiency study of the NEES System to determine whether or not some of the functions might be supplemented or increased or whether or not some of the functions should be curtailed. Did you make any such study of that kind, sir? A. You know you and I had a discussion here the other day on this efficiency study of the kind you have had around here in the Commission building and I am sure you don't mean to imply that we did that kind of a study, where the usual study done by an efficiency expert does not recognize the facts of life as you find them. We certainly were directed by NEES and of our own volition we intended to make very sure that what we had here in the operation of these eight gas companies was sound wood, that it was economical and efficient, that there was nobody goofing off, so to speak, that the services that were being rendered were in the interest of the consumers. That is what we found. We found a most economically and efficient run operation.

XQ. As a result of your study, did you make any suggestions to the NEES officials for any changes in the system? A. No, sir, I recall none.

XQ. Or any improvements? [2141] A. Where they were running that system the way they were running it, Mr. Nowlin, it was and I have seen a lot of gas operating systems and electric systems in my thirty years, and I would say it was one of the most economic and efficiently run that I have ever seen.

XQ. Now, did they or did the NEES officials indicate to you that they were going to initiate a separate study on their own to parallel your study? A. They did not, sir.

XQ. At what point did you and your associates discuss your tentative views or final views as far as that is concerned with the NEES officials in respect of your severance pay? A. It was a continuing process, Mr. Nowlin. Obviously in any study of this nature there is the period of getting acquainted with the problem and I think it very important that we all here recognize what was the problem. We had these eight gas companies that had operating revenue deductions of approximately twenty million dollars, and I think that to get this thing in proper focus here, we did not disturb fourteen, fifteen million dollars of it at all. The area that we dealt with here and that you have cross examined my associates on, and in this report, the area that we dealt with here only dealt with, in the year 1958, about five million plus dollars of money. It was the area of the most people; it was the area of the most contact with customers. We had to become acquainted [2142] with a tremendous amount of detail. This was not a simple severance study as we have done in the past. We have eight companies to be severed from a situation and tied in with fourteen electric companies. So I think you can well see that there was, beginning in May of 1959, and continuing on through the summer and into the Fall, a long period of getting to know the situation, to understand it in its intimate detail, to get together data that was necessary for us to get together, to have NEES prepare for us basic data that is so essential to arrive at the conclusions that we ultimately had to arrive at in the next year.

XQ. I don't believe you have answered my question directly yet and that is at what point in the course of your study did you discuss and confer with the officials of NEES regarding your tentative views. A. Well,—

XQ. When I say officials of NEES, I am talking about Mr. Moore and Mr. Krause and these gentlemen you named as part of the negotiations.

Mr. Quarles: When you refer to tentative views, do you mean views with regard to existing operations or the conclusions that went into the final report.

Mr. Nowlin: Perhaps I should ask Mr. Quarles—Strike the question and let me start over again.

By Mr. Nowlin:

[2143] XQ. Let's take a particular phase of your report, Mr. Quig. Let's assume that Mr. Pearson, your insurance man, came up with his tentative views or final views. I assume he talked with you about it, didn't he? A. Yes, he did. He talked with me before he even started the study and—

XQ. And did he talk to you in the course of his studies? A. That he did, sir.

XQ. Now, in the course of reaching those—were they tentative views or preliminary reports he made to you or what kind of a report did he make to you? A. Continuing reports.

XQ. I assume you would discuss some of these ideas and would you reach a definitive conclusion? A. At that stage I would say that is a very good description of it, yes, sir.

XQ. Now, once you had reached an agreement with Mr. Pearson, were those tentative views or were they final views insofar as Ebasco was concerned? A. They were certainly final views insofar as we understood the facts at the then time. I think this is quite important because with a mass of data that we had, there are times when we would arrive at conclusions and in the continuing process and we had continuing discussions with the NEES people. Obviously we had to, and the further we [2144] got into certain things and additional information we obtained, there were times that we found, and rightfully so, that the additional information would lead us to a different conclusion than we had originally arrived at. That is the nature of any study.

XQ. Well, now, prior to the actual final report on the

estimated insurance cost, did you discuss any features of that report with the officials of NEES? I mean by that the top echelon. A. Yes, we did, sir.

XQ. Well, would you say that that was a joint conclusion reached by Ebasco with the officials of NEES? A. No, I wouldn't say that at all, sir.

XQ. How would you describe it? A. I would say that it was Ebasco's conclusion as to what the costs of severance would be in the insurance field.

XQ. Now, do the officials of NEES concur with that conclusion or what was the result of the conferences with them? A. I believe several of them testified in this proceeding and indicated that the results of the Ebasco study they had reviewed and were in agreement with the pieces of that study.

XQ. At the time of this view is what I am trying to get at. [2145] XQ. Did they review your report on the insurance before it became a definitive part of the Ebasco report and did you make any changes or adjustments by virtue of the conferences with the NEES officials? A. We made no changes, no, sir.

XQ. Now I want to take you over to the same type of questioning on the customer accounting. A. Yes, sir.

XQ. Mr. Johnson, I assume, discussed in the course of his report, the preparation of his report, the different matters and items with you, didn't he? A. Continuously.

XQ. Can you tell us just the sequence of what happened with respect to that particular report? A. Yes, sir.

XQ. Would you do that, please? A. Johnson went to—he was one of the first people to go there, along with certain of our accounting people—the accounting people. Of course we found it necessary to decide early how we were going to do the study and it soon became apparent to us that you had to do such a study on what we have called here a functional basis. Now, Mr. Nowlin, a functional basis is

one thing and to get it translated back to something that would be understandable for this honorable Commission to consider against the year 1958 required [2146] a number of accounting adjustments that would have to be made because a functional study is one thing and the way that the data ultimately lies in the accounting process is something else. So we decided very early in the game that we would need competent accounting people from the Ebaseco organization on the job and while Johnson in his area and I think this exemplifies it, while Johnson was looking at the customer accounting aspect of it, we were very cognizant that we needed to ultimately translate our findings back to some pro forma basis that would have reasonable comparability with the way the accounts were carried in 1958. Now, then, with the results of the independent functional studies such as Mr. Johnson made, our accounting people translated that data, going through all of this and I admit it is a tremendous amount of detail that you have seen here, translated that material back into a form which was exactly comparable for study purposes with the way that NEES carried its books for these gas companies in 1958. We prepared the pro forma functions, Johnson in the customer accounting area and we could have left it just at that basis, I suppose, but we felt that you in your depth of penetration would certainly cross examine with respect to that and it would not be comparable if left on the functional basis with the way the books were kept in 1958. Therefore we made these accounting transitions, clearing accounts, capital accounts, expense [2147] accounts that you see. During that process, people like Johnson were constantly bringing in their findings, aligning the data up, having their discussions in the field with the appropriate NEES people, revising their thinking as it went along, as new facts came into the picture. And it was not until early in January of 1960 that we had brought all of this collection of pieces together,

still in a work paper stage, I would say. Then we sat down and wrote the reports.

XQ. Well, now, who decided that there would not be any recommended changes in the customer accounting procedures that had been adhered to previously by the NEES System? A. Well, when you say recommended changes, Johnson went into the field. I had been over the area myself—sized up what in the trade was called the workload and manned the workload. Now, in the process of manning the workload, Ebasco used judgments that we have arrived at through doing similar work in a number of places. In the customer accounting area, Johnson, for example, had only recently helped staff the whole Public Power Corporation of the kingdom of Greece, just to mention one item. He had done the same thing for other companies in this country. Obviously, Mr. Nowlin, he didn't hit a bull's eye right at the beginning, right at the very minute, and we all would overlook certain things. As our horizon broadened, as we gained more facts, of little things, we of our own volition would change our [2148] concepts. Now I will tell you a good example of that, and I think this may help you understand the nature of the work that we performed. We have had quite a bit of experience in the area of meter readers, with unions, and knew some of the growing amounts of restrictions that unions are imposing on what a meter reader can do. Some places he reads, puts it in the books and gets out. Some places he can't even inform the housewife that she has a leak in her pipe. Some places the meter reader will not read in inclement weather due to the inclusion of inclement weather clause. Johnson staffed the meter reading setup for these eight companies without sufficient realization that Mr. Dalbeck had been able to negotiate with unions and did not have an inclement weather clause.

Now what are we talking about here? New England is

graced with the beautiful weather in the summertime, but it has rough weather in the wintertime and it comes under the definition of inclement and you can have anywhere from fifteen to twenty-five days of inclement weather. Now, with a company with anywhere from five to fourteen meter readers, the loss of fifteen to twenty-five reading days can be important. Translate that into reads, translate that into billing, translate that into revenue and you have an economic wave breaking on your shore which has got to be rationalized. There is an area you can say, if you want to, well, my heavens, [2149] didn't you—that is one of the first things you might have asked for—and we were not cognizant until we got along a bit of the strictness with which the NEES companies had been able to handle their meter reading operations. When we learned, and we tested by review ourselves, of the labor contracts, we obviously readjusted our sights in that particular area. Now there are successions of processes like that that went along, Mr. Nowlin, continuously. Obviously—

XQ. Pardon me. If I may, I would like to interrupt at this point. You mean that those revisions were made after discussion and conference with Mr. Dalbeck; is that correct? A. Yes, sir, or people in the company level. Now, I am sure that you would consider that we would have been derelict in our duty if we had not so informed ourselves as we went along.

XQ. Now still trying to at least get a general area of pinpointing, Mr. Quig, when Mr. Johnson came up with his views and working papers or whatever you want to call them, I assume that you and he sat down and went over these estimates that he had made to determine what your final conclusions would be. A. In his whole area, meter reading, cashiers, people to get out bills.

XQ. Now, did you also, you or any of your associates, also sit down and discuss these—I will call them tentative—

[2150] if you have a better word, I would be glad to have it—these tentative conclusions with any officials of NEES to determine whether or not they were in agreement with them or not? For example, Mr. Hanson? A. No, no, definitely. We did our work like the new Peace Corps, down in the ditch with the folks and—I am serious in that, Mr. Nowlin—and we carried it along at the working level, which is the only way you can do these things and I will say this, that after we got through at the working level, there was never one change. When we got this report put together, there was never one change of any dollar effect and we discussed our ultimate findings with NEES officials.

XQ. Now, does that also hold true with the study on the general accounting area? A. It holds true across the whole functional area that we looked at, sir.

XQ. Now, you correct me if I am wrong. I am operating on memory, but I seem to recollect, sir, that Mr. Dalbeck testified that he was in disagreement with the principal of whether or not you have centralized accounting, that he came to the conclusion that there was no material difference to be reached or gained. Do you recall that? A. I don't recall. I thought you were asking me as to whether we changed our views. I can't speak for Mr. Dalbeck, [2151] whether he is with us or against us at this stage. I don't know. I know that what we have rode through.

XQ. As I understood your testimony, it was that there had been no disagreement between you and your associates and the NEES officials.

Hearing Examiner: No. The witness testified, as I caught it, that when they had their final conferences, so far as Ebasco was concerned there was not a dollar change or change of viewpoint. Is that right, Mr. Quig?

The Witness: That is correct, sir. I do not know what mental reservations certain of the NEES people might

have had, but my heavens, all of us who work along together at times may have certain mental reservations, but this is the Army—I mean the decision is made and along you go.

By Mr. Nowlin:

XQ. Do I understand—I am not trying to—in fact, I am trying to understand. It is pretty difficult to catch what you are saying and compose my question at the same time, but did I understand that nowhere in your Ebasco report did the Ebasco officials or Ebasco staff arrive at an independent conclusion of their own that differed from the ultimate conclusion that is reflected in the report? A. I know of none, Mr. Nowlin.

XQ. You know of no instance where you or your associates revised their estimates to coincide with the views of the [2152] officials of NEES? A. Definitely not. Why would we? We were doing an independent study, sir, and I would not call such a study independent.

XQ. Page 677 of the transcript you testified, and I quote—this is part of the quote—“We met with them repeatedly and at length”—That means the NEES officials or personnel. “—asked questions, reviewed the material they had prepared, including their estimates as to the effect of severance and throughout the whole period of our study tested our conclusions by discussions with them. In this sense the study represents a joint project in which we all participated.” Now, is that inconsistent with what you just said? A. No, I don’t think it is, Mr. Nowlin, at all. I believe this corresponds exactly to what I said, that we worked closely with the NEES personnel. That is when I made the reference that we were in the ditch. You asked me a bit ago as to—

XQ. I want to read on down further. A. You asked me as to officials. Now I make a distinction, sir. We worked constantly and I want this record to show that we worked

constantly with the NEES people at the grass roots. That is the only way you could do a complex study like this.

XQ. What is meant by this portion of the quote, "including [2153] their estimates as to the effect of severance." Whose estimates were "theirs"? A. Well, the situation there would be somewhat like the meter reader situation that we ran into. I remember quite pointedly Mr. Dalbeck saying, well, now, here you have got a lot of people here on meter readers. What is the basis. Well, we counted for fifteen or twenty-five days of inclement weather. Well, there is no such provision in our union contract. Now, that is the only way that a study like this could be done.

XQ. Doesn't this language, Mr. Quig, indicate that a severance study was made by NEES personnel? A. Well, I don't so interpret it, sir.

XQ. And then the last sentence, "In this sense the study represents a joint project in which we all participated," not an independent project by Ebasco; isn't that correct? A. Well, if you want to take my example of getting down into the ditch with them and working along because we had to get data and tremendous amounts of detailed data from the same source, to that extent it was a joint project. We were all going to the same well for our information and we had to have an awful lot of it interpreted, I want to tell you, because it is a complex situation. When the smoke cleared away, the judgments that we arrived at as to what we were going to recommend in the report were our own, sir.

[2154] XQ. Did the NEES personnel make any estimates as the effect of severance, to your knowledge? A. Well, in a situation—again if I may belabor the meter reader situation—certainly Mr. Dalbeck said if you allow for so many days times so many meter readers, you will come up with "X" less meter readers than what you have in this thing. Now, you can call that, I suppose, an estimate of

the effect of severance, giving effect to more facts than we had given effect to.

XQ. Well, did the officials of NEES have any suggestions to make to you and your associates about the executive and administrative staff which would be set up either for the individual companies or on a pro forma combined basis?

A. None that I recall. It was part of our responsibility to analyze the situation and come up with what was necessary to man these eight severed companies on an independent basis, to stand alone in this world.

XQ. In other words, you did not seek the views or obtain the views of Mr. Moore, Mr Krause or Mr. Hanson or any of the other top echelon? A. We certainly did not. That is what we were being paid to do, sir.

XQ. Do you know whether or not any of the NEES personnel or officials made a severance study? A. I do not, sir.

[2155] XQ. Directing your attention to your testimony on page 678, I notice in the middle of that paragraph you say, "We were, of course, vitally interested in the views and judgments of the NEES people. As a practical matter, I cannot recall any significant area when we and the NEES people had explored the problem in depth and had done such further research and analysis as the area of disagreement required that we did not find ourselves in general agreement on what appears in our report." Isn't a fair reading of that, Mr. Quig, indicative of the fact that you did have conferences and consultations with the NEES officials to obtain their views on the various subject matter covered by your report? A. Well, that would naturally follow in the course of things, of doing the study.

XQ. Doesn't that indicate just the reverse of what you were talking about, that this represented your complete independent thought without your discussion and conferences with the NEES officials? A. I don't think so at all,

sir. I mean this is explaining an orderly process of development, of developing a study.

XQ. What did you mean there "any areas of disagreement". A. Things that I mentioned just a bit ago, sir. As we obtained more facts, as it says right here, when we had explored the problem in depth,—I think it might have helped [2156] you now to have said "in greater depth".

XQ. Well, there are two particular sentences in those two paragraphs that are rather indicative to me. One of them is the effect of the severance—that is rather a word of art—and the other was disagreements in consultation were ironed out. That would certainly indicate that there were some conferences and consultations held with the NEES officials. A. There were, sir.

XQ. And that the ultimate result was really not your own independent judgment, but a mutual conclusion by Ebasco and the NEES officials. Is that a fair inference? A. Sir, that doesn't indicate though that anybody twisted my arm and made me change my mind.

XQ. I didn't say that. A. Well, I get that inflection in this situation here and I would certainly not want this record to stand on that basis. We did this on the very practical basis and did it in depth and when we could not arrive on some matters, which there are none that I would recall, but we have enough professional competence that we knew that ultimately the conclusions that were reached were going to be our own and we would have to stand on it.

XQ. Now you didn't make any particular study of any particular area yourself, did you, Mr. Quig; that is, you didn't [2157] do any field studies, you didn't prepare any particular section of this report. As I understand it, your function was more or less that of reviewing it and discussing and reaching conclusions with such associates; is that correct? A. My function, as I stated in my direct, was the responsibility for adequate performance of all Ebasco

people who were expert in their fields and at their respective levels. We brought people into this situation that were competent in various specialized fields. I was the coordinator of this whole operation. I was responsible for these people arriving at the conclusions after their study in depth and for getting the whole situation put together into the report which is the subject matter of 58A and 58B and Exhibit 91.

XQ. What is meant, Mr. Quig, by your testimony that you had done such further research and analysis as the area of disagreement would require if we did not find ourselves in general agreement with what appears in our report? Does that then indicate that there were areas of disagreement between you and the NEES officials?

Mr. Quarles: Mr. Examiner, that question has been asked and answered several times and the reference that he is using is to NEES people and not to NEES officials. I think the witness has distinguished between that.

Mr. Nowlin: I will read down and quote it. I will leave it to the NEES witness, Mr. Quarles, and the only [2158] NEES witness, Mr. Quarles, that appeared here were the officials of NEES, so I assume that is a proper conclusion to draw, that he is talking about the NEES officials. But he can answer it.

By Mr. Nowlin:

XQ. Doesn't this clearly infer that there were disagreements between you and your associates and NEES officials?

A. I do not so interpret it. I guess it is—what we mean by disagreement, the situation I described on the meter readers was a disagreement up to a point.

XQ. Now, the section I am reading here now is not talking about meter reading. A. No. I was using that as an example. I am trying to help along in the cause here. It wasn't just one grand honeymoon when we started out and got along on it, obviously not, and if you want to call it—

quote "disagreement"—unquote, it arose from the fact that it took us awhile to get our feet on the ground and understand the inter-company transactions that existed between eight gas companies and fourteen electric companies, which was a complex situation. Now, as we got along, we had discussions with NEES people in the field, and we obviously would come up with a comment which early in the game it was quite apparent that we didn't know what we were talking about because we hadn't sufficient depth, but I tell you by the time August, September, and [2159] October rolled around, why we were on much better ground.

XQ. If, Mr. Quig, the Ebasco reports represent independent judgment of Ebasco, why should you even discuss this matter with the NEES officials to ascertain whether there were any areas of disagreement? A. Mr. Nowlin, in my thirty years of experience in the utility business, I have learned long ago not to go off the deep end in the development of a report involving matters as complex as what we were dealing with here. We could have pursued a new route, I suppose, and/or the route that I perceive that you have in mind from this question and we would have come up with a report which would have been practically useless because by not having knowledge and depth of these many situations that we were dealing with, it would have soon been apparent that we had something that was completely worthless. Now, as we went along here and as the areas that you are quoting from say, we explored the problems in depth, did further research and analysis, which all of it, it would seem to me then, and I may say so it seems to me now, seemed to be an orderly process of doing this.

XQ. I have no criticism of this, Mr. Quig. I was trying to ascertain what you meant by your testimony.

What services has Ebasco performed for the NEES system prior to your present assignment? [2160] A. In some ten years—no, let me go back a minute. The Ebasco

services, Inc. had some responsibility and were engaged in connection with construction of a hydroelectric dam at Littleton, New Hampshire, on the Connecticut River for one of the NEES subsidiary companies.

[2161] The Witness: (Continuing) In addition, before gas had come to New England areas, when it was in the process of coming to New England, Ebasco performed some studies of an economic nature as to the market that would be available for gas in the area of these companies.

By Mr. Nowlin:

XQ. Now, was that study that you made preliminary to the previous offer by NEES of the sale of its interest in these gas companies? A. Do you have the date, sir?

XQ. It seems to me like the sale and the offer were made somewhere in 1951 or 1952. I will ask counsel for respondent to supply that.

Mr. Vorenberg: It is in the direct testimony.

The Witness: Yes. I recall that, to my memory, it was with the coming of, the advent of the gas pipe lines into New England:

XQ. Is that the study you were just referring to? A. The study I am just referring to is the one you refreshed my memory on as to the date. It was a study made in the situation that you have described.

XQ. Now, has Ebasco performed many other services for NEES in the past year? A. I know of none, other than the two that I just mentioned, sir.

[2162] XQ. Do you know whether or not Ebasco have performed any consulting services for any particular departments in the NEES system? For example, with respect to taxes or insurance? A. I know of none, sir.

XQ. Ebasco was not on a regular retainer basis, was it? A. Ebasco was not, no, sir.

XQ. Do you have any agreement or understanding with

the NEES officials, regarding the performance of any future services that may be required? A. No, sir.

Hearing Examiner: Off the record.

(Discussion was had off the record.)

Hearing Examiner: On the record.

XQ. Has Ebasco made any previous severance studies in the past for other situations? If so, please identify them. A. May I rely upon that portion of my direct testimony which cites that in some detail?

XQ. All right.

Did not Ebasco make a severance study for Louisiana Power and Light Company regarding the separation of its gas and electric properties? A. We are discussing here a matter of labels again, I think, Mr. Nowlin.

XQ. Make it for the Middle South, whichever you prefer. [2163] A. I don't want to be picayunish about the terminology. It was, I believe, an economic study as to what would happen if the gas property of Louisiana stood alone.

XQ. All right. A. Well, there is a slight difference, I am told by my legal friends, and I respect their judgment in the matter.

I would not want to put it in the category of this, which is a gas severance study.

XQ. Did you not make also a study—make an economic study or severance study in connection with the New Jersey gas properties? A. Yes, sir.

XQ. And the GPU? A. Yes, sir.

XQ. So it can be assumed that Ebasco is thoroughly familiar with the issues involved, usually involved, and the factors generally considered by the Commission in Section 11(b)(1) severance proceeding.

Is that correct? A. Well, sir, you are asking me to pass on what I think is a legal judgment, on what Ebasco considers. I don't know that I am quite able to answer that.

XQ. Well, from the basis of your previous severance

studies, and testimony before the Commission in other cases, isn't it reasonable to assume that Ebasco is pretty familiar [2164] with the different factors considered by the Commission in the previous decisions, in Section 11(b)(1) cases? A. In a general way, I would say so. Definitely.

XQ. Is it therefore fair to assume, Mr. Quig, that Ebasco is aware of the fact that the greater the loss of economy that can be shown, the fatter the chance for the company's retention of gas and electric operations? A. May I have that again, sir.

(The question was read by the reporter)

The Witness: Well Mr. Nowlin, I certainly have no views on that either pro or con.

XQ. Now, I believe you were present when Mr. Webster testified, were you not, Mr. Quig, on Direct? A. I was. Yes, sir.

XQ. Directing your attention to pages 656 and 657—the question at the bottom of page 656, “Turning now to another subject, have you had studies made which show the loss of economies which would result if the NEES Gas Company were assumed to be separated from the system?”

And the answer: “Yes, we have.”

Question: “Were these studies made by your own organization or by outside professionals?”

Answer: “Both.

“In the spring of 1959, we engaged Ebasco Services, Inc., of 2 Rector Street, New York City, [2165] “to make such studies and at the same time, directed our own organization to make such studies, the two groups to work together in the gathering of material.”

Are you in accord with that testimony? A. Well, Mr. Webster's testimony speaks for itself.

XQ. Well, do you agree with his interpretation of the situation? A. Well now, I know of no separate and independent study that NEES was pursuing.

If they were, it was news to me, sir. There may well have been. I don't know.

XQ. Then you do not agree with this portion, " * * * to make such studies and at the same time, directed our own organization to make such studies, the two groups to work together in the gathering of material?"

You know nothing of that? A. Well, I tried to explain here that due to the complexity of the situation that we had involving eight gas companies and fourteen electric companies, it was highly important that at the grass roots level, we get together and get our basic data and that is exactly what we did.

That was just in the interest of economy and efficiency, and it was important that we whom came in, in April, and had to learn the hard way, quickly assimilate some things which of course, the NEES personnel knew through [2166] their long years of working on the system. Therefore, we made some mistakes as we went along, which discussions with them as to interpretation soon corrected.

Once we arrived at a point of having basic data which we thoroughly understood, we went our merry way and arrived at our conclusions.

What NEES did with the same basic data that we all had to work with, I am not advised, sir.

XQ. Now, when Ebasco was given this assignment, were you asked to make any evaluation of the advantages and benefits that might accrue to the gas companies as a group in the event of severance from the NEES system? A. Yes, sir. We were asked to determine the advantages if any, as well as the disadvantages.

XQ. Now, did you make any specific study of the advantages that might accrue from separation? A. Yes, we did, sir.

XQ. Did you find there would be no advantages? A. That is exactly what we found; that there would be none.

XQ. Did you reduce that study to writing? A. I would say that the whole gammut of material that you have in 58-A and 58-B, is that study, sir, and it discloses that the dollar effects—insofar as the dollar effects are concerned—the degree to which [2167] there are disadvantages.

Certainly, in the whole area that we have studied from a dollar—from a tangible dollar point of view, or intangible point of view, we could not find any advantages because of the highly economic and efficient manner in which these gas companies are operated jointly, with the electric operations.

XQ. And you found no advantages with the Management tending strictly to the operation of gas properties, rather than the joint operation of electric and gas properties? A. Well, the management that I have in mind, that ran these gas properties, tended strictly to the operation of the gas properties.

XQ. Have you made any survey or re-study of the previous cases, where the gas and electric have been severed, to determine what benefits if any were accruing to the gas companies by virtue of their being severed from the electric operations? A. Such a study would be a sizeable undertaking, and there would have to be taken into account all the vast economic changes that have come about.

I did have Mr. Cahal in his marketing area, study some what I like to call before and after results; before severance and after severance of some companies [2168] such as you described, and frankly, we are not impressed with the results “after”.

XQ. Do you have the results of that study available? A. I do not. No, sir.

XQ. Is it obtainable, Mr. Quig? A. Those were some notes that Mr. Cahal had. I believe he made reference to them when he was on the stand; particularly I can give it to you from memory, that sales per customer for example, in

certain severed companies, there had been no perceptible change since the point of divorcement.

XQ. What companies were those, Mr. Quig? A. At the moment, I cannot recall. They were in the south.

XQ. For what period was that study made? A. I told you, I could not recall the details.

XQ. Now, do you know what is commonly referred to in the industry as a "shake down period"? I think Ebasco used that term on a previous case. A. I have the general understanding, I think, of what you are driving at.

XQ. Does the Ebasco report give any consideration to possible savings in operating costs of the eight combined NEES gas companies, in the shake down period following the year of severance? [2169] A. Our whole concept in setting forth the basic financial data that are in these reports, is that they would be well shook by the time they reached the point.

XQ. You made no study to determine whether or not the benefits would ultimately accrue? A. I said we did. I said that we took into account that this would be beyond the shake down period, and would be in an area where this is what we could expect on a year to year basis, and I have my doubts, sir, if I may add, the way your whole price levels are going, that if we were to do this today, we would have a different set of figures entirely—higher costs, materially higher costs.

XQ. You probably also have higher per book cost, would you not? A. I beg your pardon?

XQ. You would probably have a higher per books cost too, would you not? A. You will have to explain that one to me.

XQ. I think that you stated, if you were starting now, you would have to start with higher pro forma costs. My point was, that you also start with a higher per books

cost. Is that correct? A. You obviously would start with the same comparable period, yes, sir.

[2170] XQ. Mr. Quig, among the companies that you stated that you had made an observance of the after effects of severance, did that include the New Jersey Gas Company? A. I think it did.

XQ. Do you know what their record has been? A. Yes, I do. I live in that area.

XQ. Well— A. They have had growth beyond all of man's comprehension—a thing you would never get in New England, of that magnitude.

XQ. Well now, you made a lot of projections here. A. I do not see, Mr. Nowlin, that you are going to get in the area of these eight gas companies, the magnitude of growth that has been achieved in the present areas of the New Jersey Natural Gas Company. For another client, I recently made quite an intensive study of that situation. It is fantastic and for basic economy reasons, which do not exist in the New England areas. It is not comparable at all to the situation we have in discussion here in New England, of these eight gas companies.

XQ. Did you, or your associates, attempt to make any appraisal at all of the question of whether or not the eight severed gas companies could obtain some portion of the required services from a service company more economically than it can do the work itself? [2171] A. Certainly, the services, certain legal and auditing services, we contemplated would be acquired from organizations in that line of business. We did not utilize any service organization for the executive-administrative staff, accounting, new business operations, which were to be performed on a day-to-day basis and which are so necessary to the adequate operation of a company.

We did contemplate the utilization of service organi-

zations for the unusual; the peak load concept; the rate case, for example, but in our study, we included no dollar costs for the utilization of such a service organization.

XQ. Are you familiar with the background of the Middle West Service Company? A. Within reason, I am.

XQ. Do you know how it was set up as to who the owners and operators of the service companies are—that service company? A. Only in a very general way, sir.

XQ. Are you familiar with any instances in the utility industry where there are mutual service arrangements between non-affiliated utility companies? A. There are a few. I don't recall them right now, sir.

XQ. Did you, in your Ebasco report, give any consideration [2172] to the possibility that these eight NEES gas companies might form a mutual service company for their own benefit? A. Well, of course, in the formation of the combined operation, as I have testified, we founded it upon the basic organization you have today in the Gas Division, and staffed it with the additional personnel. That, I think, in some degree, answers your question of what you are seeking.

If you mean did we contemplate after we had formed the organization, that we did form, and set forth these exhibits, did we contemplate forming some sort of a cooperative operation, no. We did not.

XQ. Well, did you give any consideration to the fact that the NEES companies might establish a mutual service company comparable to that of the Middle West Company, in which it could render technical services to both the gas and electric company? A. No, we did not, Mr. Nowlin. I guess I have been brought up too long in the atmosphere that, to be successful, a business has to be run for a profit, not on a mutual basis.

XQ. Well, is it not the essence, Mr. Quig, of the Ebasco Service Company, to render services to utility companies on a cheaper basis than it does to others? A. Not since January 1, 1961, sir, and such services as we rendered before that time, were rendered pursuant [2173] to orders of this Commission on the then existing basis.

XQ. Do you know whether or not there are any mutual service companies rendering service to non-affiliates, at cost, plus we will say, six percent on the invested capital? A. I would not know, Mr. Nowlin.

Mr. Nowlin: I think that is all at this time.

Hearing Examiner: Shall the witness retire from the stand?

Mr. Quarles: If you please, sir.

Hearing Examiner: All right. You may retire from the stand.

Mr. Nowlin: Mr. Examiner, I would like to request, on behalf of the staff, that the hearing be recessed until Monday, April 24, at 10:00 o'clock.

Hearing Examiner: I understand that that date has been agreed on by all counsel and the hearing will now stand in recess until 10:00 a.m., April 24, 1961.

(Whereupon, at 4:20 o'clock, p.m., the hearing was recessed until Monday, April 24, 1961 at 10:00 o'clock, a.m.)

PROCEEDINGS

[2175] Hearing Examiner: Let us come to order, gentlemen. The hearing will now be resumed.

Mr. Vorenberg: Mr. Hearing Examiner, during the course of cross examination by the staff during the period from April 5 to April 10, the staff requested that we obtain certain information to assist them in connection with this case. It seems to us that it would be appropriate at the

outset to introduce this material and have appropriate exhibit numbers assigned to it. I understand that that procedure is satisfactory to Mr. Nowlin.

Hearing Examiner: I should think that would be a good idea.

Mr. Vorenberg: I might say that the substantial portion of this material has already informally been made available to the staff so that they would have some opportunity to review it before resumption of these hearings today.

The first item is in response to the staff's request, page 1723 of the transcript, for insurance costs for the year 1958, with those for the other years, during the period of 1954 through 1959. In response to that request, we offer as an exhibit the attached two sheets, the first of which is headed "New England Electric System, Gas Subsidiaries-Insurance Coverage in Effect (except group annuity) annual cost per policy billing", and which shows the figures for [2176] the year 1954 through 1959.

The second sheet is headed "New England Electric System Gas Subsidiaries Summary of Insurance Charges affecting Account 671 for the years 1954 through 1959."

I would suggest that these be admitted as Respondent's Exhibit 107.

Hearing Examiner: Let these two pages come in as one exhibit, Respondent's Exhibit 107.

(Respondent's Exhibit No. 107 was marked for identification and received in evidence.)

Mr. Vorenberg: Next I refer to Mr. Nowlin's request which appears pages 1809 and 1811 of the record for the commercial cost per customer for the year 1958 for the five electric companies of the NEES System that conduct joint operations with gas companies as shown on the returns to the Massachusetts Department of Public Utilities. In response to this request, I offer a single sheet headed

"New England Electric System Five Electric Companies, Commercial Cost Per Customer, 1958." I would suggest that this be admitted as Respondent's Exhibit No. 108.

Hearing Examiner: The exhibit is so admitted in evidence.

(Respondent's Exhibit No. 108 was marked for identification [2177] and received in evidence.)

Mr. Vorenberg: The next four items which are being furnished in response to the request of the staff were drawn by Mr. Simes from detailed working materials to supply the staff with the additional details they requested. First I refer to Mr. Nowlin's request appearing at page 1942 of the record for an itemization of the \$53,400 figure for distribution of the clearing accounts shown on page 40 of Exhibit 91. In response to this request, I offer the attached sheets entitled "Distribution of Clearing Accounts Between Operating Expense Accounts and Plant and Other Accounts Under Combined Operation (Exhibit 91)". This consists of a descriptive text and table showing the source of changes and charges to clearing accounts under combined segregated operation and the distribution of these charges between operating expense and other accounts.

Hearing Examiner: Are you offering this?

Mr. Vorenberg: I would suggest this be admitted as Respondent's Exhibit 109.

Hearing Examiner: The paper and its attachments as you have described them, Mr. Vorenberg, are admitted as Respondent's Exhibit 109.

(Respondent's Exhibit 109 was marked for identification and received in evidence.)

[2178] Mr. Vorenberg: The second of the four items in this group relates to Mr. Nowlin's request appearing at pages 1986 and 1987 of the record for more detailed explanation of the difference between the figures \$188,200

and \$205,900, appearing on page 2 of Exhibit 105. In response to this request, we are offering the attached sheets entitled "Explanation of the Derivation of the Increase in Charges to Operating Expenses on Account of Executive, Administrative and Staff Costs as Shown on Page 2 of Exhibit 105." This consists of an explanation and table with notes showing the derivation of each of the figures at the bottom of page 2 of Exhibit 105. I would suggest that this be admitted as Respondent's Exhibit 110.

Hearing Examiner: This exhibit is so admitted in evidence.

(Respondent's Exhibit 110 was marked for identification and received in evidence.)

Mr. Vorenberg: In connection with Exhibit 110, which has just gone in, I refer to Mr. Nowlin's request at pages 1956 and 1957 for information as to the amount of pro forma engineering payroll for the eight gas companies that was capitalized. This Exhibit 110 shows on the table at page 2 that the total pro forma executive, administrative and staff payroll charged directly to plan account is \$20,600, as compared with \$20,000 actual for 1958. I have checked and I am informed that \$15,500 [2179] of the \$20,000 actual amount and \$16,800 of the \$20,600 pro forma figure represents charges for gas division and pro forma engineering payroll costs respectively.

Moving to the third item in this group of four, at pages 2011 through 2014, Mr. Nowlin requested some detailed information concerning rental costs for IBM equipment and allocations, cross billings in connection with this equipment as discussed in the third paragraph, page 445, and Exhibit 58A. To meet Mr. Nowlin's request, we would offer this tabulation entitled "Mystic Valley Gas Company—Suburban Electric Company—IBM Machine Rental Allocation" and suggest that it be admitted as Respondent's Exhibit 111.

Hearing Examiner: Let the exhibit come in under that exhibit number.

(Respondent's Exhibit No. 111 was received in evidence.)

Mr. Vorenberg: Turning to the fourth of this group of four, at pages 2104 through 2109 we were requested to supply information as to space jointly occupied by the seven gas companies, other than Lynn Gas, including the amount of space occupied and the allocation of cost. In addition, we were requested to supply information as to the pro forma space requirements and cost of these gas companies. Since Norwood has no projected increases in rental costs, this material relates to six companies. In connection with these summaries, I should mention that they show the allocation of the total space occupied between gas and electric, even though substantial amounts of such [2180] space are actually used jointly for combination gas and electric activities.

I should also mention that it has often been the practice of the NEES companies to include payroll and fringe benefits of janitors, telephone operators and other items in the total cost of joint space and including such amounts in the rental charges. Therefore, the costs shown for actual rentals are not comparable to the pro forma costs of new space which would not include such items. It should also be noted that the total square foot areas shown for present space occupied include in certain instances larger amounts of general use space such as basement storage areas and so forth, with no comparable amounts of such space being included in the pro forma requirements for new space. To meet the specific request, we offer the 12 sheets, two relating to each of these six companies, and suggest that it be admitted as Respondent's Exhibit 112.

Hearing Examiner: The exhibit which is headed "Joint

Space Occupied—1958" is admitted as Respondent's Exhibit 112.

(Respondent's Exhibit No. 112 was marked for identification and received in evidence.)

Mr. Vorenberg: Information on Exhibit 112 also provides Mr. Nowlin with the answer to the request he made [2181] concerning Wachusett Gas Company and Worcester County Electric Company, at pages 2076 and 2077.

At pages 2133 and 2134 Mr. Nowlin requested information as to the number of vehicles serviced at the garage in Beverly. I have had this checked and am advised that a total of 33 gas company cars and trucks of North Shore Gas Company were serviced and repaired at the Beverly garage. In addition, 15 cars and trucks of Merrimack-Essex Electric Company were also serviced and minor repairs made at the Beverly Garage.

In addition to the material I have referred to so far, the staff made two requests off the record for additional information. The first of these was the population and customer figures for the year 1960 for each of the towns served by the eight gas companies. I have here eight sheets, one for each gas company, setting forth this information and I would suggest that these eight sheets together be admitted as Respondent's Exhibit 113.

Hearing Examiner: Let the exhibit come in under the number suggested, Exhibit 113.

(Respondent's Exhibit No. 113 was marked for identification and received in evidence.)

Mr. Vorenberg: The staff also requested off the record that a tabulation with respect to the rate of return [2182] for the eight gas companies for the years 1958 and 1959. To meet this request, we would offer a sheet entitled "New England Electric System, Massachusetts Gas Companies, Rate of Return Data", being a rate of return computation,

and suggest that this be admitted as Respondent's Exhibit 114.

Hearing Examiner: The exhibit is so admitted in evidence.

(Respondent's Exhibit 114 was marked for identification and received in evidence.)

Mr. Vorenberg: Just this morning Mr. Nowlin asked if we would introduce the 1960 annual report of the New England Electric System as an exhibit and, of course, we are perfectly willing to do so and I would suggest that that be admitted as Respondent's Exhibit 115.

Hearing Examiner: The annual report is admitted as Respondent's Exhibit 115.

(Respondent's Exhibit 115 was marked for identification and received in evidence.)

Mr. Vorenberg: Finally, Your Honor, at pages 2136 and 2137, Mr. Nowlin asked counsel for Respondent to make a statement for the record concerning payroll taxes. I believe the following is a summary of what Mr. Nowlin will want:

The Federal Social Securities contributions by the [2183] employer for 1958 were two and one-quarter per cent on employee's wages up to the first \$4200.00. Also paid by the company was a percentage of the employee's wages up to the first \$3,000 for the State Unemployment Compensation. This is a rated plan and varies among the different NEES companies.

In 1958 the rating was as low as .5 per cent for the Northampton and North Shore and up to a maximum of 1.3 per cent for Central Massachusetts and Lawrence Gas.

A third item in this general group of payroll taxes which are paid by the company is Federal Unemployment Compensation in the amount of .3 per cent, based on the same amount of taxable wages which the State unemployment rate is computed upon. In addition to these three items which are paid by the company, in 1958 the employees paid

two and one-quarter per cent, which were for Federal Social Security taxes, based on an amount up to the first \$4,200, this amount being withheld and transmitted by the company.

That is everything we have to offer at this time, Your Honor.

Hearing Examiner: Thank you, Mr. Vorenberg.

Mr. Nowlin: Mr. Examiner, we would like to call Mr. Hanson.

Hearing Examiner: All right.

Whereupon,

HARRY HANSON

[2184] was recalled as a witness and having been previously duly sworn, was examined and testified further as follows:

Cross Examination

By Mr. Nowlin:

XQ. Mr. Hanson, during the course of Mr. Quig's testimony, page 1488 of the transcript, he indicated that the pro forma eight combined of these gas companies could not get insurance coverage comparable to those enjoyed as a part of the NEES System. Is that your understanding or memory of his testimony? A. It is.

XQ. Could you tell us what specific coverages the eight combined companies, on a pro forma basis, could not get that are now available to them?

The particular sentence, Mr. Hanson, I had in mind is it says that the answer is no. As Mr. Pearson has pointed out, the coverages which the eight independent companies could obtain individually or as a group—I don't know whether that was a slip of the tongue or not when he said "or as a group". That is the reason I was asking the question. A. I would think that as a group would be treated differently than as independent companies and if these com-

panies were all a part of a group which was under common control, that these coverages would be obtainable, but I have some question as to whether the general limits of insurance could be obtained, particularly in the casualty end of the [2185] insurance. I think it certainly is more applicable if the companies were independently operated and owned. Then I could have serious question as to whether the companies would be able to obtain the high limits of coverage.

XQ. Am I correct in my understanding, then, of your testimony that looking at these companies on a combined basis there would really be no substantial differences in the coverages that they could get that they now have under the NEES System? A. I think they would be able to get the coverages, but I do have questions as to some of the high limits which are presently in effect.

XQ. One of the Ebasco witnesses—I think Mr. Pearson—testified to the effect that the Massachusetts utility companies could not obtain blanket insurance coverage unless 50 per cent or more common stock was commonly owned. Is that your understanding of the testimony? A. It is.

XQ. Is that by virtue of a provision of state law or insurance underwriters or why is this restriction imposed? A. I think that is a restriction of the insurance companies themselves.

XQ. Do you know whether or not that is only applicable in the State of Massachusetts? A. I think it has general application.

[2186] XQ. I also recall in the course of the testimony by Mr. Pearson he mentioned a retrospective plan. Do you recall that? A. I recall there was discussion about the retrospective rate.

XQ. It was my understanding that in his testimony he said the eight combined gas companies could not obtain the advantage of a retrospective plan. Is that your memory of

his testimony? A. I am a little bit fuzzy about that. Do you have the particular testimony?

XQ. No, I don't have it. May I ask this: If you don't recall, do you know whether or not the eight combined gas companies on a pro forma basis severed from the NEES System could carry on the retrospective plan which is now available to them? A. I don't think they would get the same benefits that they obtain now. They might be able to get a retrospective rating plan, but I am sure that with the smaller group of companies that the minimum and maximum premiums that would be required would be greater than at present.

XQ. As I understand it, the retrospective plan only applies to the personal injury, property damage coverage; isn't that right? A. It applied to the entire casualty lines.

[2187] XQ. Now, Mr. Hanson, do you know how long the eight combined gas companies would have to operate as a group before the retrospective coverages would be available to them? A. No. I would certainly expect that if the companies were a separate group that if the retrospective plan was going to be available, it would be available immediately.

XQ. Do you know whether or not, Mr. Hanson, the building up of an experience record is a prerequisite to the eight combined gas companies obtaining this retrospective coverage?

Mr. Dunn: I think it might help in this line of cross examination if counsel for the Commission were to point to the page of the record on which he is basing his line of questions.

By Mr. Nowlin:

XQ. In this connection, Mr. Hanson, I direct your attention to the testimony along on page 1716 and 1717 of the transcript. You notice along the bottom part of page 1716 it contains the statement that the retrospective plan is a plan where on the volume of premiums and under this plan

you would get a percentage base premium. Now that is the particular plan that I am talking about. Does that help you any on the questions I have asked? A. Yes, I understand what he has said here and I think it confirms what I indicated, that although the group [2188] of companies as such might be able to get a retrospective rating plan, the question would be as to whether or not that was advisable for this group because again, as I indicated previously, certainly the minimum premium that would be payable would be increased considerably over what it is at the present time and also the same with respect to the maximum premium, so that the question would be as to whether it would be advisable to go into a retrospective rating plan or would it be better to have a fixed premium that would be payable for these coverages to an insurance company.

XQ. Now the particular factor I was interested in further—Here is the question: I inquired as to whether or not the decision on Mr. Pearson's part not to contain the retrospective plan was an arbitrary decision on his part or did you check with the insurance company to see if they can get this kind of coverage? A. I believe that it was checked with the insurance companies and it was found that it would be possible to get the retrospective rating plan, but again the question arises would it be advisable to buy that type of insurance because of the higher minimum and maximum premiums that would be payable under that plan versus the cost of the insurance if the standard rates were paid.

XQ. Mr. Hanson, if you started out with the retrospective plan for the eight combined gas companies, would the estimated [2189] cost of \$114,600 reflected on Exhibit 92 be more or less for personal injury and property damage? A. Would you say that again, please?

(Question read by reporter.)

Mr. Dunn: You recall, Mr. Nowlin, that the witness

testified that the retrospective plan applied to a whole line of casualty insurance.

Mr. Nowlin: Yes, but I wanted to get this particular answer.

The Witness: I might say with respect to the casualty lines, that is, the three of them, Workmen's Compensation, Personal Injury, Property Damage and automobile bodily injury and property damage, those three should be considered together and it is my understanding that the figures which indicate under common control are on the basis of not having a retrospective rating plan, but rather having a fixed amount of premium for those coverages because the study that was made by Mr. Pearson and also by our own insurance manager indicated that that would be the most economical way of doing it.

By Mr. Nowlin:

XQ. Would the initial cost be higher or lower? A. These would be the initial premiums.

XQ. You mean with the retrospective plans? A. Not with the fixed amounts of premiums for the [2190] coverages because it was the opinion, after making the investigation and study, that the results of using these fixed premiums for these coverages would be less than if a retrospective rating plan was employed.

XQ. Are you talking about the first year of operation? A. Yes, I am talking about what it was based for that particular year, which I suppose you would call the first year.

XQ. Do you know, Mr. Hanson, what the premiums would be for a retrospective plan for the first year? A. No, except that as Mr. Pearson has testified and also as I learned from our insurance manager who had also looked into this, that the so-called retrospective plan would have amounted to more premiums.

XQ. In the first year of operation, Mr. Hanson, is that what you are talking about? A. I am talking about the

first year or the tenth year or any other period of time, that with the amount of exposure and the amount of payroll applicable to the combined gas operations that the amount of premiums shown would be the most reasonable kind of insurance to buy.

XQ. Mr. Hanson, would the premium reflected on Exhibit 92, for casualty insurance, be larger if you had adopted a retrospective plan as reflected on this exhibit for the first year of operation? [2191] A. My recollection is that it would have been higher.

XQ. Do I understand your testimony that for each year thereafter the retrospective plan would be higher than these costs reflected here? A. It is expected that it would be higher because, as I indicated under a retrospective plan, you do have to have a minimum premium and there is also a maximum premium so you have to pay not less than a certain amount for these coverages which takes into consideration, of course, the general exposure and you are protected by a maximum premium, as well. Now, when you are looking at that particular kind of insurance and you stack up what the premium might be with what you could buy that particular kind of insurance for by paying a fixed premium and not having a retrospective rated plan.

XQ. Would the minimum premium be greater or less than the amounts reflected on Exhibit 92? A. I should say from my recollection of what was told me that the minimum premiums would be greater than shown in the second column of Exhibit 92.

XQ. Do you know whether or not your Insurance Department made any check with the insurance company to determine the validity of this estimate? A. They did.

XQ. Did your Insurance Department talk to any other insurance people with respect to this coverage? [2192] A. Oh, yes, yes, there were checks with several insurance companies.

XQ. And it was their conclusion that no other insurance company would carry the coverage in a smaller premium than that reflected on Exhibit 92? A. That is right.

XQ. Mr. Hanson, directing your attention for the moment to Exhibit 107—that is the insurance coverages—it is my understanding that the year 1958, the total of \$139,247 includes Lynn Gas; is that correct? A. That is correct.

XQ. And also for 1959, that includes Lynn? A. It does.

XQ. And for the preceding four years, the totals do not include Lynn, do they? A. That is right.

XQ. In order to make these six years totals comparable, shouldn't Lynn be excluded from the total for 1958 and 1959? A. To make them comparable with the other four years, yes.

XQ. According to Exhibit 89-A, Lynn's insurance expense for 1958 was \$28,016.00. Does that figure seem correct to you? Do you have that before you. Mr. Hanson? A. I do.

XQ. That is the correct figure, \$28,016? [2193] A. It is.

XQ. Could you give us the same figure for 1959 for Lynn? A. No, I cannot. I would assume that the figure for 1959 would not be radically different than that \$28,000. I have found out that the premium figure for the year 1959 was \$25,302.

XQ. How is your insurance placed for the System, Mr. Hanson or who has charge of it and could you tell us just briefly the mechanics of placing the insurance? A. I would be very glad to. When our insurance is up for renewal, we contact a number of people who write that particular kind of insurance and we invite them to make propositions for us for the renewal. That usually, of course, involves their obtaining considerable information about experience and the exposure, going out in the field and seeing just what the situation is and in due time we do receive what might be termed bids for the renewal of insurance and we take

the one, the bid that gives us whatt I call the maximum protection and the minimum cost.

XQ. Now, do you know whether or not you have changed insurers in the last three or four or five years? A. Yes. That happens quite frequently when coverages are expiring that we get a bid from another insurer and that is the best bid and so we do switch insurers from time to time, I know with respect to our casualty insurance lines [2194] that we have been with Travelers now for, I would guess, around six or possibly eight years. Before that for several years we were with the Aetna and before that we were with Employers Liability and we have been with the Liberty Mutual, so that we have no hesitattion when we are placing the business with the insurance company from whom we receive the best bid.

XQ. How often are your insurance coverages reviewed by the management with the viewpoint of possibly obtaining other insurance? A. Whenever the insurance is up for renewal; that is, a policy might be written for one year, it might be written for three years, it might be written for five years, but whenever the policy or policies are going to be expiring within a few months' time, then we do get information together about that particular coverage and distribute it so that we can receive competitive bids.

XQ. Do you know how often the insurers review your system experience record? A. You are talking now about insurers that are not carrying the insurance?

XQ. Well either the insurers that are carrying the insurance or others who may be contemplating bidding for it. A. Well, of course, an insurance company that is carrying the business, that reviewing experience, the claims and what not, that is a day to day affair because there are claims [2195] that are arising in connection with insurance. I won't say every day, but certainly quite frequently. With respect to insurance companies that are not carrying the

line, the only time that they would have interest in reviewing the experience and the exposure would be when we were looking for bids.

XQ. During the course of a term, say a three year term insurance company, does the insurer review those, your personal experience at the end of each year to see whether or not adjustments should be made? A. Again that depends particularly on the kind of insurance that you are talking about. If you are talking about casualty insurance, then that is at least an annual review and, of course, in that connection our insurance department is looking at that pretty much as a continuous thing because the claims and the reserves that are set up for claims have a vital effect on what the costs of the insurance is going to be from year to year, and so we have a vital interest in knowing that our experience is carefully checked, not only by the insurance company, but by ourselves because we in effect do audit the experience figures that the insurance company is required to maintain.

XQ. Now, directing your attention for a moment to the casualty insurance, have you had any instances in the past three or four or five years where the insurer has at the end [2196] of a year given you a decrease in the premium by virtue of your experience record? A. Oh, yes, that goes on each year and is one reason why you just can't consider insurance premiums, particularly in the casualty lines, to be a static amount, because the premium is, in effect, adjusted every year based on the experience which has been sustained. For example, in this comparison of premium costs that we have been talking about, we had a poor experience in our casualty lines in 1956 and 1957. Fortunately for us the experience improved, so that we did get a return premium because of our credit in 1958 and also in 1959, whereas in those previous years either the return premium, because of the experience, is very small or we may have had

to pay an additional amount because with a retrospective rating plan, your insurance costs are based on what your experience is, whether it is good or bad. If you have a good experience, you have a lower premium; if you have a poor experience, that pushes the premium up.

[2197] XQ. Now, then in general, Mr. Hanson, if you had a good experience record in the electric operations, and you get a reduction by virtue thereof, is that reduction spread over all of the companies or only made available to the electric companies? A. There is no separation between one company and another or one part of our business from another. All of this insurance is a part of a blanket policy though. If the experience is good for the entire group of companies, the entire blanket policies, then all of the companies that participate in that insurance benefit from it.

XQ. Well, isn't it possible, Mr. Hanson, that such electric is so much greater than the gas that a good experience for the electric might offset a very bad experience for the gas? A. That is possible, and, of course, it could work in reverse, too.

XQ. In the event, the circumstances which I just gave you assuming they were to happen, would the gas nevertheless get a part of the benefit? A. They certainly would, because, as I indicated, all of the companies are insured and under one blanket policy, under one retrospective rating plan. That is, it is on a system basis, so that if the overall experience is good, all of the companies participating in the insurance get a lower amount of [2198] premium. Likewise, if the experience is poor, there is a higher cost than there otherwise would be.

XQ. Do you know, Mr. Hanson, what the experience record of the gas and the electric has been over the past five years? A. Broken down between the two groups?

XQ. As between the two categories. A. You are talking about one division and the other?

XQ. Yes, sir. A. No, I not.

XQ. Isn't it a fact that the electric part of the operations is a less hazardous operation than the gas? A. Well, you would find differences of opinion on that way. Certainly there are arguments against what you say just as well as there are arguments for it.

XQ. Isn't it a fact. Mr. Hanson, that the explosion aspect of the gas operations is ignored separately? A. That is correct.

XQ. So that if you were to eliminate, having eliminated, rather, the explosion hazards from the gas business, wouldn't it seem to follow that the electric would be less hazardous than the gas?

Mr. Dunn: Do you understand the question?

The Witness: No.

Mr. Nowlin: Strike the question.

By Mr. Nowlin:

[2199] XQ. Now, directing your attention, Mr. Hanson, to Respondent's Exhibit 88, is a letter dated August 20, 1959, by you comparing the service company's allocations. You estimate that of the salary and expenses of the holding company which would have been transferred to the service company that thirty or forty percent thereof would have been chargeable back to NEES, is that right? A. That is correct.

XQ. Now, was 1960 the full year of operations under this arrangement? A. It is.

XQ. Of the NEES salaries and expenses that were actually transferred in 1960 from NEES to the service company, please indicate what portion thereof was actually charged back to NEES in 1960?

Mr. Dunn: I would like to have the question read. (The pending question was read by the reporter.)

Mr. Dunn: Mr. Examination, there were no salaries paid by New England Electric system during 1960 to executive

personnel. During that year they were paid by the service company, so there could be no transfer

Mr. Nowlin: We mean the amount that actually would have been paid by NEES except for the new arrangement.

The Witness: And I assume that in your question you include not only salary payments, but also the expenses and [2200] overhead that would go with those salary payments.

By Mr. Nowlin:

XQ. What we are talking about, Mr. Hanson, is the figure that is comparable to the \$600,000 that you mentioned in paragraph 2 of the letter. A. I assume that was it, and, of course, that does include the expenses and overhead as well as salaries, and the actual percentage of the total amount for the year 1960, which was charged back to NEES was 30.8 percent.

XQ. Well, I assume then that the balance of 69.2 percent was allocated out to the NEES subsidiaries, is that correct? A. That is correct.

XQ. The 30.8 percent, Mr. Hanson, is that an unusual or abnormal percentage in relation to other years? A. Of course, there is no comparison with other years because 1960 was the first year in which this arrangement was effected. Prior to the year 1960 the entire amount was expense to NEES.

XQ. But were there any unusual expenses incurred during the year 1960 by NEES? A. No, I don't think anything particularly unusual. I would say that this percentage of 30.8 could be considered as normal and does compare with the statement that we made previously that it would run between 30 and 40 percent. (Line left out)

[2201] of the cost attributable to the Section 11 proceedings as to which the question involved? A. Yes, it does.

XQ. Would that be of an unusual nature? A. It is hard to say what is unusual because we always seem to have un-

usual things going on. If it isn't one thing it would be another.

XQ. For example, not only was the cost of your service company people, the NEES people, appearing in this proceeding included, but were also the EBASCO study costs included in the percentage? A. No. I think you are a little off base with respect to that. This amount which I have been referring to of 30.8 percent, that applies to the people who immediately prior to the year 1960 were on the NEES payroll. So that what we were talking about in that letter that was referred to and what I am talking about are consistent, but neither include people who prior to the year 1960 were on the service company payroll, and of course, it does not include any of the charges by EBASCO. In other words, we are talking here—at least I am talking about the salary and related expenses of the people who immediately prior to 1960 were on the NEES payroll, but who effective January 1, 1960 went unto the service company payroll.

XQ. Well, didn't the NEES people do a lot of work in connection with the Section 11 proceeding? [2202] A. Yes.

XQ. And that cost was charged back to NEES A. Certainly, this percentage, which I have indicated, included an amount of several people's time, which was paid for directly by the service company in 1960, but a portion of which went against NEES during that year.

XQ. Do you know what the percentage was transferred to NEES for 1961 for the first quarter?

Mr. Dunn: Again, there is some trouble. Transferred from NEES?

By Mr. Nowlin:

XQ. Charged back to NEES. A. May I be excused for just a minute.

Hearing Examiner: Let us have a short recess.

(Whereupon, a short recess was taken.)

Hearing Examiner: Let us come to order.

The Witness: I don't have the exact percentage, but I expect it is about 33 percent.

By Mr. Nowlin:

XQ. On the basis of the actual experience, Mr. Hanson, would you still use the same percentage figures reflected on Exhibit 88 in relation to the allocation of \$425,000? A. You are talking, I suppose, about the percentage that would be chargeable to NEES.

XQ. It is the percentage you charge each subsidiary company, [2203] that is, whether you would vary those percentages on the basis of your 1960 experience? A. I will certainly try to clarify this. I would expect that the charges to NEES would be within the limits which I indicated, and I would certainly expect the allocation of amounts to vary from those set forth in the exhibit, because, of course, the year 1960, for example, that would be based on the actual distributions as well as allocation of what we call undistributed and overhead, but certainly so far as total is concerned, I don't think that there would be any great change over what is set forth in this letter of August 20, 1959.

XQ. In other words, you are in effect saying that about \$425,000 would have been distributed out to the subsidiaries as a total, is that right, in 1958? A. Yes. I think that would be reasonable for that year. I believe the actual amount for the year 1960 was \$443,000.

XQ. Now, the percentage allocation for each of the companies as shown on Exhibit 88, you have no reason to change those percentages as applied to 1958? A. No. I have no basis for making any change, but as I do want to emphasize, all of these charges to subsidiaries and subsidiary by subsidiary may very well change because of actual distributions of time. The percentage allocation is on the assumption, of course, that this total amount is going to be allocated to the companies in the percentage which I

have [2204] indicated, but that may very well vary because of actual distributions that are made by these people.

XQ. Again, looking at Exhibit 88-A, you show a percentage allocation of 5.3 percent for Lynn Gas and Electric. Did you break this percentage figure down to show separately the allocation for the gas department and for the electric department of Lynn? A. I think it must have been broken down. Could I be excused a minute and see whether that is available?

Hearing Examiner: Yes.

All right. You may proceed.

The Witness: I don't have the split of that for the year 1958, but based on the year 1960, the approximate percentage applicable to Lynn Gas Company would be 2.1 and to Lynn Electric 3.2.

XQ. Do you think it is fair to use a comparable figure for 1958? A. I think it would.

XQ. On page 2 of Exhibit 88 it lists Northern Berkshire Gas Company among the operating subsidiaries. Is this meant to be Northern Berkshire Electric Company? A. It certainly is.

Mr. Dunn: Mr. Examiner, counsel for the Commission has requested at this time that we have introduced as an exhibit a letter which was sent by Mr. Hanson to Mr. Gishman on April 18, [2205] 1961, giving certain information requested by the staff with respect to the consolidated tax savings allocated to Central Massachusetts Gas Company in 1958, and with respect to the Massachusetts franchise tax computation for the year 1958. I would like to offer this as Respondent's Exhibit No. 116.

Hearing Examiner: Let this letter with the attached schedule come in as Respondent's Exhibit 116.

(Respondent's Exhibit No. 116 was received in evidence.)

By Mr. Nowlin:

XQ. Directing your attention to Respondent's Exhibit 59, on the second page thereof, you notice the second line from the bottom entitled "reduction due to participation in NEES consolidated return," do the figures shown on this line for each of the companies represent the difference between the tax which each company would have paid on the single return basis in 1958 and the actual tax allocated to the companies on a consolidated basis? A. That is right.

Mr. Dunn: Do you understand which line he is referring to here?

The Witness: The second page, which is the total amount of \$157,700.

Mr. Nowlin: That is right.

Mr. Dunn: Relative to consolidated tax savings and their [2206] allocation.

By Mr. Nowlin:

XQ. Isn't it a fact that if the taxable income of each of the gas companies for 1958 were reduced to the pro forma level shown for each company in Exhibit 58-A, then the amounts of consolidation benefits would in each case have been smaller than the amount shown in Exhibit 59? A. I am a little bit confused.

Mr. Nowlin: Read it back.

(Question read by the reporter.)

The Witness: Where is 58-A now?

Certainly if all the assumptions that have been assumed in 58-A had been in effect during the year 1958 and 1959, there would have been no consolidated federal income tax saving in the year 1959.

By Mr. Nowlin:

XQ. Assuming seven of the eight gas companies and the operation thereof on a merged basis, do you have any reason to think that the merged companies with \$50 million of pro-

perty and \$25 million of revenues could not finance itself on a sound and economical basis?

Mr. Dunn: Are you assuming a single corporation now?

Mr. Nowlin: That is right, assuming the eight companies merged into one corporation.

The Witness: No. Certainly if the eight companies [2207] were combined, I would expect that they would be able to arrange the financing. I would expect that probably the equity financing that might be done would be more costly than is the case under the present situation.

XQ. I would like to ask you the same question: Assuming that the eight gas companies severed or were under common control of a holding company, what would your answer be? A. My answer would be the same as the preceding answer.

XQ. Now, do you know, Mr. Hanson, what investments NEES has made in the common stocks of the eight gas companies in the past five years? A. I don't recall.

XQ. Do you know whether or not NEES has supplied any funds to the eight gas companies for corporate purposes through the medium of advancing of common stock? A. There have been purchases of common stock, and there have been loans. I don't recall just what they have totaled during this past five-year period.

Mr. Nowlin: I would like to request counsel to supply for the record the investments which NEES has made in the eight gas companies during the past five years by way of equity.

Mr. Dunn: Would the reporter read the last request?

(Mr. Nowlin's request was read by the reporter.)

Mr. Dunn: We will supply that.

By Mr. Nowlin:

[2208] XQ. Directing your attention for the moment, Mr. Hanson, to page 1590 of the transcript, you will note your answer at the top of page 1590 which reads: "Yes, I am. As

set forth in that report, there could be some centralization of general accounting upon combination of the eight gas companies upon severance from the NEES System, but in other accounting areas I do not believe that the centralization would result in any material savings under existing conditions."

Now, what do you mean by other accounting areas?

A. I think I had particular reference to payroll accounting, stores accounting, plant accounting, customer accounting.

XQ. What do you mean by "under existing conditions"?

A. The question that you always get into when considering centralization of various accounting functions is whether the mere fact of doing all of this work in one location and any economies you might obtain from it more than offsets the additional expense that you have to go to in getting the basic information from the various sources, that is, the various companies and divisions, to this central point. Now, under existing conditions, as I see it, the size of this group of companies, it would certainly not be feasible or practical from an economy standpoint, having in mind the results, to use any of the present high speed equipment, which, of course, is quite expensive whether you rent it or whether you own it.

Now, if at some time in the future there may be [2209] developments with respect to the automatic or the telephone messages where meters could be read or where information could be transmitted from numerous points to a central point, then in that event it may very well be that there would be economies that could be obtained, but until there is a change in the general art of doing these things, which would result in economy, I don't see that any purpose would be obtained by doing it at the present time.

XQ. Directing your attention again for the moment to the insurance cost upon severance of the gas companies,

Respondent's Exhibit 92, I think you in the course of your previous testimony adverted to the fact that adjustments are made from year to year or may be made from year to year by virtue of the experience record of the companies; is that correct? A. That is correct.

XQ. Now, you don't mean to imply, do you, that the estimated premiums that are set forth on Exhibit 92 would be rigid and that they would not be subject to subsequent adjustment in the event of a better experience record? A. I think I indicated that it was my recollection that in the preparation of Exhibit 92—again, I am referring for the moment to casualty insurance lines, to which this particularly applies, that for these coverages it had been the opinion of both Mr. Pearson, the insurance expert of Ebasco, as well as our insurance manager, that for the group of gas companies that they [2210] would be better off from a premium standpoint, having in mind the hazards and the potentialities of the situation, to buy insurance which would be what I term a fixed policy and premium type. That is, not purchase the so-called retrospective rating plan because it would be necessary to have a higher minimum premium applicable to this group of gas companies than the relative minimum applying to all of the companies presently in the NEES System. So that although you might get a lower minimum premium under a retrospective plan than the fixed premium under a more rigid type of insurance, the hazards of a bad experience might very well push that premium cost up substantially more than the minimum premium or the fixed premium under a rigid policy, so the gamble just is not worth it if you are just looking at a relatively small group of companies like the eight gas companies in the NEES System.

XQ. Do you think, Mr. Hanson, that apart from the retrospective plan, that the premiums reflected on Exhibit 92 would remain rigid for all times? A. They certainly would

be for the first policy period. Now, it may very well be that at the end of the policy period, dependent upon what the experience of the companies might be, that they could purchase this insurance for a renewal period at a less premium or if the experience had not been good insurance companies might say, no, we won't insure it for that premium; it has got to be more for the next policy period. Again, the [2211] insurers are always looking at what the experience and the exposure is when they are writing a blanket insurance policy.

XQ. Wouldn't these premiums on Exhibit 92, particularly the cash and the insurance, be subject to annual reviews and increases or decreases depending upon the experience record? A. No. As I tried to get across, I am quite sure that the figures set forth in here are the fixed premiums and do not give effect to having a retrospective rating plan for the group of eight gas companies.

XQ. Well, now, I think that is my understanding of it, too, but it is also my understanding that you would have that these premiums would be subject to a decrease or increase on an annual review, depending upon the experience record, is that correct, even if you don't have a retrospective plan? A. It may very well be. It might be that this insurance was written for a one-year period. Now, presumably certainly if we were doing this sort of a thing before the end of that year we would be contacting several insurance companies and saying, "Well, what will you write this insurance for next year?" Now, they would say, "Well, what has the experience of these companies been in the past?" And they would make a field examination to find out what the exposure was and then they would make bids. Now, the best bid might be either more or less than this figure, which is indicated in this Exhibit 92, and I do want to emphasize that—I don't know as I made it too clear before—that even [2212] though the minimum premium under

a retrospective rating plan might be somewhat less—and I think that is the case here—than a fixed premium without any provision for adjustment during the policy year, you do have to consider the possibilities as to what kind of risk you have and what sort of an experience there might be in determining which is the best kind of insurance to buy. For example, if you had a, let's say, a relatively small company, and it did have substantial exposure, it would be foolish to consider purchasing a retrospective rating plan even if you could obtain it, because you might get one loss during the policy year which would require a substantial amount to settle, and then you would be stuck with that bad experience for several years after that because, of course, the insurance company under the retrospective rating plan, they are going to in effect collect as premiums from the assured an amount equal to the losses, plus something for their services in administering the insurance and in settling claims and that sort of thing.

Mr. Nowlin: Mr. Examiner, I think this is all we have at the present time of Mr. Hanson.

Hearing Examiner: All right.

(Witness excused)

Hearing Examiner: Are you calling Mr. Krause?

Mr. Nowlin: Yes, sir.

Whereupon,

[2213]

ROBERT F. KRAUSE

resumed the stand and testified further as follows:

Cross Examination

By Mr. Nowlin:

XQ. Mr. Krause, where are the construction budgets originated for the gas companies in the NEES System and for the electric companies in the System? A. In the gas companies they are originated in the Central Division of the

gas companies after conference between management people and the gas engineers. In the electric companies they normally originate in the District Engineering Offices in the various locations in the electric properties. They are then made up and come to Boston, where they are reviewed, and I guess I finally put my initials on the budget at the end.

XQ. I was going to ask you through what channels are the budgets cleared up to and including final approval?

A. Just before they come into Boston, Mr. Dalbeck would put his approval on them, and then they would come into my office.

XQ. That is on the gas? A. That is on the gas.

On the electric side they would contain the District Engineer's initials, and they would come in and be looked over by the Engineering Department in the Boston office, and then they [2214] would go to the Vice-President in Charge of Electric Operations, which is now Mr. Jones. He would put his initials on them, and finally they would get into my office.

XQ. What official has the final responsibility for determining what construction will be undertaken for the electric and the gas business? A. Oh, I would say that final would be Mr. Webster as Chief Executive Officer of the company. He normally doesn't get into every budget unless there is some question raised that requires a general discussion.

XQ. What official would decide what particular construction project should be postponed or disapproved? A. That could happen anywhere along the line. You could find that in the electric side, for example, that the Chief District Engineer or the Chief Engineer didn't agree with what had happened down the line. They might question an item that it could be postponed or it couldn't. The Distribution Superintendent in a particular area would have something to say about it and the local management, depending on what the item was. So that a lot of these items are sifted out as

they come along. Then they are finally reviewed in Boston, and, of course, one of the things that has to be considered is the availability of money.

XQ. Would Mr. Dalbeck have the authority to initiate any construction for the gas companies? [2215] A. Himself you mean?

XQ. Yes. A. Well, he could certainly, but I would think in the normal course they would be initiated somewhere in his organization before they got to him.

XQ. Wouldn't the system have some upper limits upon the amount of construction which he could initiate on his own? A. No. I don't believe it works that way, Mr. Nowlin. He suggests what is necessary. I can't recall recently where we have said that certain construction in the gas couldn't go on because there wasn't funds. It is pretty much his own judgment as to what he needs. He has certain tests that he makes for enlargement of the gas system, but he wouldn't suggest construction where he could see that he wasn't going to get a fair return on the extension.

XQ. Does he have the authority to undertake construction on his own behalf without the clearance with the NEES officials? A. No. No one in the system can go ahead and do any construction unless that construction was listed in a budget which gets final approval.

XQ. So that really the final say-so on the construction budget for the gas and electric lies in the hands of the NEES executives, isn't that right? A. That is right.

XQ. How frequently, Mr. Krause, do the NEES officials [2216] revise a budget either upward or downward when it reaches the Boston office? A. Repeat that question, please.

(The pending question was read by the reporter.)

The Witness: Well, the budgets are revised quarterly, Mr. Nowlin, but that doesn't necessarily mean every quar-

ter there will be an upwards or downwards revision, but they are reviewed quarterly and they are projected for a year each quarter.

By Mr. Nowlin:

XQ. And that review is done on the parent level by NEES officials? A. That is correct.

XQ. Directing your attention for the moment—how frequently do the NEES officials have differences of opinion as to the undertaking of the amounts of construction recommended from the lower echelon? A. I would say it was rather infrequent. By the time it gets through the engineering department and the operating heads, usually many things are ironed out, so that I would say it is infrequent that the NEES officials had to knock an item out. You might, for example, find that on a service building, where it is something that the local people would very much like to have, but you can't say it is a necessity, something like that might get knocked out at the NEES level more than on an extension [2217] of a line or something that is purely an engineering or technical basis.

XQ. Where there is a limited amount of capital available for construction for both the gas and electric companies, who determines the allocation of capital that should be expended for a particular purpose?

Mr. Dunn: May I inquire of counsel as to the source of the capital that he is inquiring about?

Mr. Nowlin: I assume it is either in hand or whether it is in prospect by financial arrangements.

Mr. Dunn: Are you inquiring about capital available to the holding companies or available to the operating companies through going into the financial markets? I am not quite sure what your question is.

By Mr. Nowlin:

XQ. Are you clear on the question? A. Not now.

XQ. Suppose you strike that whole thing and I will

start over. Let's assume, Mr. Krause, that the Gas Division comes up with an estimated construction budget of \$20 million for a given year, and that the electric comes up with an estimated budget of \$50 million. Now, who would determine what funds should be allocated to the particular operations? A. Your figures are a little high, but on those assumptions I can never remember the question coming up in that context, Mr. [2218] Nowlin. Normally the system is able to finance what construction is necessary, and I think the inquiry would be if it is necessary the money has to be raised. I don't think Mr. Dalbeck or the electric department at any time have ever been restricted from doing some construction that was necessary because funds weren't available.

Now, sometimes a thing may get postponed if it is a type of item that can be postponed because the year as a whole for construction money looks rather high, but again, it isn't a question of whether the gas or the electric gets cut back. It is based on a question of necessity.

XQ. Now, who would determine whether or not the gas construction or the electric construction should be postponed? A. Well, in that event you would have a discussion with both sides to see whether Mr. Dalbeck could recommend something, for example, in the gas picture that could be postponed a year, and he might well do it, and the same would be true on the electric side.

XQ. Well, now, have you had any instances in the system where, for example, you needed to construct a new generating station for the electric and the gas department also required funds for their construction, and in such instances did you postpone the gas construction for the benefit of the generating station? A. Never.

[2219] XQ. Do you know whether or not you have had any instances, say, in the past five years where the construction budget submitted by Mr. Dalbeck and his asso-

ciates has been postponed or rejected? A. I think there must have been items that were postponed in the gas budgets as well as the electric budget. I just can't put my finger on one of them now. It would be very apt to be a collection of minor things.

XQ. Do you know what factors underlay the decision to postpone construction for the gas? A. Well, there again the thing that controls the whole construction budget is the foreseeable ability to finance that much construction in a given year. Now, that is elastic, but it gets to a point sometime where you might say that the construction budget looks high for this coming year, and you would comb over the projects to see whether any of them can be postponed or aren't completely necessary, and that would go forward on both the gas and the electric side, and whether one or the other might postpone relatively more than the other I think would be dependent on the individual situation rather than on whether it was gas or electric.

XQ. Do you know, Mr. Krause, which of your operations—that is the electric or the gas—is generally the most profitable? A. That varies from year to year. I think we try to maintain a fair return in both the electric and gas operations. [2220] That isn't always true at any given location at any certain point of time. I suppose it is arguable that the allowable rate of return on a gas operation should be a little higher than the electric. Whether that is always attainable is questionable.

XQ. Well, isn't that the position which the management ordinarily takes with the Massachusetts Department of Public Utilities? A. Yes. I would say if we had a rate case we would ask for a higher rate of return in a gas company than we would in an electric company of the same size.

XQ. Do you know what rate of return you have earned on the electric operations for the years, say, 1958 and 1959?

Mr. Dunn: This is for all electric in the system?

Mr. Nowlin: The overall.

Mr. Dunn: In all of the states?

Mr. Nowlin: Yes.

The Witness: I would have to refresh my recollection but as a guess I would say it is between five and a half and six percent.

By Mr. Nowlin:

XQ. Do you know what overall rate of return you have earned on your electric operations in the State of Massachusetts for the year of 1958 and 1959? A. My recollection is it was a little over six percent.

XQ. Do you know how that rate of return compares with the rate of return earned by other non-affiliated electric companies [2221] in Massachusetts? A. Well, I was giving you an overall system rate of return which included operations in Rhode Island and in Massachusetts and New Hampshire. I would say that in those years our rate of return in our Massachusetts companies were higher than the average.

XQ. Well, that is what I was attempting to ascertain awhile ago. You gave me the overall rate of return in all states. Tell me what it is in the State of Massachusetts alone for the electric companies. A. I would say in Massachusetts it was right around six percent in those years.

XQ. Now, does the Massachusetts Commission fix rates on the basis of original cost for electric properties? A. They have a system which they don't call original cost, but in the essence it is the same.

XQ. Have you had any rate cases by electric companies before the Massachusetts Commission in the past four or five years? A. Yes. The last one was Worcester County Electric as it was constituted then, which was prior to the present merger.

XQ. And when was that decision? A. What year?

XQ. Yes. [2222] A. I think it was 1958 or 1959.

XQ. Was an actual rate base fixed by the Massachusetts Commission for that particular company? A. Yes.

XQ. And what rate of return did they allow you in the Worcester rate case? A. Something under six percent, but I think it was what we asked for, Mr. Nowlin. It wasn't a judgment that that should have been the rate of return. They allowed us the rates that we had suggested.

XQ. This was what we call a full blown rate proceeding with the State Commission? A. Very full blown, yes.

XQ. Does the State Commission up there fix rates for the electric companies operating in Massachusetts on an individual company basis, or do they fix rates on the combined electric operations in the State of Massachusetts? A. By individual companies.

XQ. Now, is the Worcester Electric Company the only rate proceeding that you have had in the past four or five years in the State of Massachusetts? A. No, we had other rate proceedings. If you go back five years, I am not sure. We had a rate proceedings for Northern Berkshire Electric Company, Quincy Electric Company, Weymouth Light and Power Company. I think that is the list.

[2223] XQ. Now, turning to your gas companies, have any of the eight NEES gas companies had any full blown rate proceedings with the Massachusetts Department of Public Utilities in the past five years? A. I think the answer is no to that except that Lynn Gas and Electric may have had a rate case immediately preceding their being taken into the system.

XQ. Now, I assume the Massachusetts Department of Public Utilities uses the same formula fixing rates for the gas companies as it does for electric companies, isn't that correct? A. The same type of regulation, yes.

XQ. And I would also assume that the Massachusetts Department of Public Utilities fixes rates for each of the

eight gas companies on an individual basis rather than on a combined basis? A. That is correct.

XQ. According to Exhibit 114 put into evidence this morning, the Lynn Gas Company earned a rate of return of 5.1 percent in 1959 as compared with 7.5 percent in 1958. Could you tell us what this decrease is attributable to? A. I think one of the things that has contributed to this, that has contributed to, I think, lower returns for a lot of the companies is the fact of having to make their own gas for peak shaving, and I think the Lynn situation is a particularly expensive operation.

[2224] Another thing is I am not certain that their sales effort has been as successful as it has been in other areas. I think you will notice that they haven't got as much of the house heating load as some of the other companies have. I am not certain either whether they didn't lose a certain amount of large customers during this period.

XQ. Due to what, do you know? A. I think it was due to a change in the General Electric operation in that area.

XQ. Do you consider a 5.1 percent rate of return a fair return for Lynn Gas? A. No, I do not.

XQ. Now, looking at Central Massachusetts I notice in 1958 your return of 7.8 percent as compared with 5.3 percent for 1959. Could you tell us what that decrease is attributable to? A. I think this is the situation that involved the Federal income tax situation. I think this was the first year that Central Massachusetts really paid a Federal income tax.

XQ. Perhaps this line of questioning, Mr. Krause—tell me if I am right—should be addressed to Mr. Dalbeck rather than to you, is that correct? A. I think he could do a better job at it, but I will be glad to try it.

XQ. Let me direct your attention to one other here, and that is Norwood Gas earned 7.1 percent return in 1958 and 8.1 [2225] percent return in 1959. Don't you consider that

that would normally be an excessive fair rate of return? A. Well, I wouldn't want to shout about it or brag about it. I think it would be a little high, yes.

XQ. In your judgment what should the gas companies, each of the gas companies earn in order to earn a fair rate of return? A. Of course, you have to look at the size of the company and look at its financing. The smaller the company, the higher the rate of return I think should be. The Massachusetts Commission, like other commissions, tests the rate of return by the cost of capital. Usually a larger company is able to obtain a lower interest rate on the debt portion of its capital, and also in Massachusetts if a company is part of a holding company system, they will assume a capitalization for the company in testing what the fair rate of return should be, but I would think any gas company in Massachusetts should be able to earn at least six and a half percent without having the rate of return questioned as excessive.

XQ. Now, do you know what the rate of return of the NEES System earnings on the electric operations of Lynn was during the year 1958 and 1959? A. No, I don't off-hand, Mr. Nowlin.

XQ. Would you expect it to be better than 5.1 percent? A. Yes. I think it was around 5 point—well, I better not guess. But I think it was in excess of 5.1.

[2226] XQ. Now, on page 874 of the transcript, Mr. Dalbeck stated in part: "It has been our experience over the last few years that it requires about a ten percent annual increase in MCF sales of gas just to offset the annual increase in wage rates, municipal taxes, and increased cost of materials and services."

Now, could you tell us what the comparable figure on an analogous situation would be for the electric companies? A. No, I can't, and I would like to know what it is, Mr. Nowlin. There is some percentage somewhere that you

have to maintain to offset these things. I don't know exactly what that percentage is.

XQ. During 1958 and 1959 and 1960, do you know what percentage of those gross electric revenues of the NEES system have been carried down to gross income after taxes; that is, on the average? A. I haven't those figures in mind.

XQ. You probably wouldn't know what it was for the gas companies, is that right? A. No. Probably Mr. Dalbeck would know on the gas companies, and I think probably Mr. Hanson could give you that figure on the electric companies.

Mr. Nowlin: Off the record just a minute.

(Discussion off the record)

Mr. Nowlin: Could I inquire of counsel if he could supply us the answer to the question which I just asked Mr. [2227] Krause and refer to counsel in 1958 and 1960.

Mr. Dunn: Yes. I would like to have it read back by the reporter again to make sure it is clear.

(Question read: "During 1958 and 1959 and 1960, do you know what percentage of those gross electric revenues of the NEES system have been carried down to gross income after taxes, that is, on the average?")

[2228] Mr. Dunn: Mr. Examiner, I think there are some factors that have to be taken into consideration, before giving this information. I suggest that counsel for the staff discuss this matter with me during the recess and we will agree upon the information to be supplied.

Hearing Examiner: Very well.

By Mr. Nowlin:

XQ. Mr. Krause, assuming that a substantial housing development is going to be built in the service area of the electric and gas subsidiaries of NEES, who determines what extension and what service—that is, gas or electric—will be made to supply the requirements of this development? A. There is no gas or no electric service in the area?

XQ. That is right. A. The initial problem would be whether the Gas Department would think that they could get their mains to this location and make any money on the business, if they got it. If you assume that—and I assume that the electric would extend because you have to have lights—so you are going to have your electric there. It then becomes purely a question of the desires of the developer and the abilities of either the electric salesmen or the gas salesmen to sell the business.

I think in the last analysis, it is much like what kind [2229] of a car you are going to buy. Some builders are gas minded; some builders are electric minded, and there is certainly no decision made anywhere in the system whether that particular project is going to be electric or gas.

XQ. In other words, none of the NEES officials have to issue instructions, either to the gas or electric departments, with respect to contacting the builders, to determine the advisability of putting either gas or electric in the area? A. That is correct. In all these areas, we have men whose living is dependent on being able to sell gas or electric to the new project. There are no holds put on these men at all. They go out and sell. And what determines it is either their salesmanship or the merit, or what the buyer thinks the merit of the product is.

XQ. Since the electricity has to be in—let's assume a new subdivision—in any event, to furnish lights, from the viewpoint of the investing capital, would it not be more economical for the electricity to develop the area rather than the gas? A. I don't know because if you get a substantial gas load, the decision is, can you put the pipeline in there—the electricity, you know you are going to get a certain amount of electric business, in any event.

I think that if you were fortunate enough to get electric heat, or all-electric homes, in addition [2230] to the lighting and other electric uses, certainly your capital would be

more profitably invested in that area, but that is not the way we run the system.

XQ. Well, if it were more profitable to take the electric into the area rather than the gas, would not Management favor the electric? A. No. I assume that if the gas goes in, that the profit will be made out of the gas business.

XQ. Isn't it a fact that your electric operations to Massachusetts, are more profitable on the overall than the gas? A. I don't think I answered that question that way.

XQ. I am asking you now, if that is not the fact? A. I don't know which is the more profitable. As I say, it varies from place to place and from year to year, Mr. Nowlin.

XQ. Doesn't it make more economic sense, Mr. Krause, that you try to get the electric area—I mean, the area developed with electricity, since you already have your investment in that area, than it would be to expend the funds to take the gas in the area? A. You may be able to make those assumptions in some places but that is not the way the decision is made.

XQ. Well, if it were more economical to put electric service into the area than it would be the gas, would not [2231] the Management be remiss, at least to the stockholders, if it did not favor the electric as opposed to the gas? A. No. I don't think so.

Mr. Dunn: Mr. Nowlin, I would like to ask counsel for Commission to state, is it more economical to whom? To the companies? To the consumers? What are you talking about?

Mr. Nowlin: From the point of view of investments in the area. That would be primarily from the point of view of the investor.

Mr. Dunn: You are talking about the profits on their investment?

If I understand your question correctly, you are talking about whether or not it is not more profitable to the com-

panies to put in more electric versus gas, and there I have difficulty, because both are regulated utilities, limited in the return that they can enjoy, and therefore, I fail to see the import of your question.

Mr. Nowlin: Well, it is one factor if you have a regulated utility, and the State Commission states how much you are permitted to earn, but it cannot earn if it cannot serve, irrespective of that.

Hearing Examiner: Well, the witness answered that. He said, "I don't think so."

Mr. Nowlin: Let's take a concrete example.

[2232] Let's go to Lynn Gas. You are earning 5.1 percent. You are earning 6 percent from the electric. Then you estimated you are doing better on the electric.

Now, you had a big subdivision are being developed there. Would it not be to the advantage of the NEES system to expand its electric operations into that area, rather than its gas?

The Witness: We have adopted, as a policy that is in the best interest of the stockholders of NEES that we have unrestricted competition to try to get this kind of new business. We think, as a result of really sticking to that policy, in the long run, both the gas and the electric are better off. So that it makes aggressive salesmen out of both of them. They both profit, I think.

By Mr. Nowlin:

XQ. Is this policy adopted even though it may mean a duplicate investment to put the electricity and the gas into the area? A. Yes. I think that is illustrated, Mr. Nowlin, by the fact we have had gas and electricity in quite a few areas.

XQ. Well, isn't it a fact, Mr. Krause, that if the Management is going to foster or promote the gas along with the electric, to the advantage of, the profit of the stockholders, that you are in effect, subsidizing the gas at the expense

[2233] of the electricity. A. You can make the assumption that it is more profitable to do it the other way. I am not sure. I think it is more profitable.

XQ. I said, if it were. A. I cannot accept that assumption.

XQ. I give you the example. I don't want to argue with you. I give you the example. At Lynn, gas and electric, you were earning 5.1 percent on your gas. I think you estimated six percent on the electric.

It is obvious in that area it is more profitable is it not, to push the electric operation. Isn't that a fact? A. No. I don't follow that at all.

XQ. That fact that you are earning 5.1 on gas and 6 on electric, you don't think that the electric is more profitable? A. I think it is more profitable in that particular point of time but I don't see how it follows that it would continue to be more profitable to push the electric there.

XQ. Well, why would it not be? Those are actual operating results. Why would it not be more profitable to push the electric? A. Because I think, in the long run, that the whole operation is more profitable if the gas and the electric [2234] compete for new business on an unrestricted basis.

XQ. Even though you don't get the return on the investment from the gas, that you do on the electric? A. I assume we are going to get a fair return on the investment for that new area. I am sure that you would not try to develop it with gas mains, if you could not foresee in the foreseeable future enough business to make a return on your investment.

XQ. Well now, let's assume one other factor, which we don't have in the record but for the past five years, let's assume that your electric operations in Massachusetts produced a rate of return of six percent and that your gas properties produced a rate of return of five percent.

Would it not be obviously more profitable to the NEES

stockholders to foster the electric operations, rather than the gas?

Mr. Dunn: I object to that question, Mr. Examiner. He is asking the witness to make an assumption that is not necessarily so.

The Witness: I thought I answered that, Mr. Nowlin.

Mr. Nowlin: No, you did not answer this one.

Hearing Examiner: I thought the witness said he could not accept those assumptions. Did I catch that correctly, Mr. Krause?

[2235] The Witness: That is correct.

Hearing Officer: Off the record.

(Discussion was had off the record.)

Hearing Officer: On the record.

We will recess at this point, until 1:30.

(Whereupon, at 12:30 o'clock, p.m., the hearing was recessed until 1:30 o'clock, p.m., on the same day.)

AFTERNOON SESSION

[2236] Hearing Examiner: Let us come to order.

Mr. Nowlin: Mr. Examiner, I would like to ask counsel for respondent to try to state the rate of returns on the five electric companies in the NEES system, that conduct joint operations with the gas for the year 1958 and 1959.

Mr. Dunn: We will supply that.

Whereupon,

ROBERT KLAUSE

resumed the stand and was further examined and testified as follows:

Cross Examination

By Mr. Nowlin (Cont'd.):

XQ. Mr. Krause, as I recall it, NEES management attempted to dispose of its interest in the gas companies in

1952, did they not? A. I think that was the year. Yes, sir.

XQ. Do you know why the Management decided to dispose of its interest in the gas companies at that time?

A. Well, I was not in a top position of Management at that time but I will answer that to the best of my knowledge, Mr. Nowlin.

XQ. If you don't know, I don't want to press you for an answer. A. I think I answered it. I think that there was an [2237] outstanding question as to whether the gas properties could be retained under Section 11(b)(1) of the Public Utility Holding Company Act. At the time, the earnings of the gas companies were small, relative to the amount of investment. Natural gas was on its way. There was considerable interest among investors generally in the country in purchasing shares of natural gas companies, in areas that were just getting natural gas, and it was an opportunity to perhaps realize the full value of the properties without, at the same time, sacrificing immediately, any large amount of earnings, and it seemed to be an opportune time in view of the overall question of retainability, to see what kind of a price could be obtained.

XQ. Do you know whether, at that time, in 1952 and the prior years, the gas companies were earning profit or were they operating at a loss? A. I don't know. There may have been some individual ones operating at a loss, but let me say the rate of return was very poor, as a group.

XQ. Do you know what the first year was that you felt that the gas companies began to earn a fair rate of return?

A. I would have to refresh my recollection on that. It was about the second full year, after the advent of natural gas, and its conversion.

XQ. That would be 1955 or 1956? A. I think that is approximately correct.

[2238] XQ. Now, taking you back to the development of this assumed subdivision, I believe you stated that you

would have to go in with electric to light the houses, would you not? A. Perhaps I did not explain that fully, Mr. Nowlin.

If you were going to supply electric heat to a subdivision in all the houses, your investment would have to be greater. You would put in heavier lines; there would have to be more transformers; and it would be a different design. It would be more expensive.

XQ. Well now, I think it was testified earlier in the proceedings, that the NEES system had put in a development or a promotional rate for electric housing. Is that right? A. I am not sure you would call it a promotional rate. In early 1960, after considerable study, the NEES companies all adopted a house heating rate. Prior to that time, we did not have what you would call a house heating rate as such, but for the preceding ten years at least, with the exception of the Lynn Company, the Massachusetts companies had rates under which a person could get house heating at a cost which in some instances, was less and in some instances was more than the present house heating rate. Perhaps I should explain that further, the NEES companies generally had an off-peak water heating rate which was available to a customer, if he had an electric range, and a water—electric water heater. If a person asked for this rate, [2239] he was given a two-dial meter, and at 11:00 o'clock at night, all his use automatically switched over to another dial and stayed on that dial until 7:00 a.m., in the morning. So this gave him eight hours of the twenty-four hours where he got all of his use on an off-peak rate.

This rate varies from 10 mills to 12 1/2 mills, depending on whether a particular company had had a recent rate increase. Those companies that had rate increases, the standard price was 12 1/2 mills. So if you would put in electric heat, by taking advantage of that off-peak period,

and due to the fact that about 40 to 42 percent of the fuel needed to heat a home is used in that eight-hour period, you would have arrived at a rate for your heating which would be fairly close to the present heating rate.

If you were in an area that still had a one cent off-peak rate, your average cost for heating your house, for electricity, would be a little less than the present heating rate. If you are in an area that had 12 1/2 mill off-peak rate, the present heating rate would be a little less.

XQ. Now, in general, is the heating of new homes by electricity on a competitive basis with the heating of new homes, by the same homes, rather, by gas heating? A. I don't think it can be answered yes or no. I will be glad to enumerate the factors. In an electrically heated home, there is a considerable saving in the initial [2240] installation. I think it is estimated that to put gas or oil heat in the home, the average size home, would cost anywhere from 11 to 12 hundred dollars. The cost of putting in the electrical equipment to heat a home is probably half that amount of money.

However, in order to meet the specifications recommended for an electrically heated home, added insulation is necessary.

In other words, considerably more insulation than you would put in a gas or an oil heated home.

So this extra insulation cost in a new home, usually eats up most of the difference between the two installation rates. Then, in an electrically heated home, we must admit that your cost of operation, the fuel part of your cost of operation, is higher than either gas or oil.

On the other hand, you get individual thermostats in each room so that you can get the temperature you want in any room in the house. It is clean. There is no flame. It is odorless. People like this sort of thing. They are willing to pay a little more money for it. So that when I say it

does compete, I think you have to answer that question in the mind of the buyer. Buyers do believe that it competes. They are willing to pay a little more for the fuel charge in their monthly bill.

XQ. Well, is the competitive situation more nearly [2241] approximate, when you get into the higher price homes than in the lower cost homes? A. No. I don't think it has anything to do with size.

The ratio would remain about the same, no matter what the size of the home. We have a considerable number of very small homes that are being built that have electric heat.

XQ. What has your experience been since you put in the special rate or promotional rate for electric housing in the NEES area? A. Along about 1958, it became evident that there was a market for electric heating in New England. I think this was largely due to advertising that had been done in other parts of the country; national advertising on all electric homes, and the change in the consumer's buying methods, generally. People were willing to pay for quality, and it was offered to them, and it was about the latter part of 1958 that we first began to train any considerable number of people to do electric heat selling and this included special schools for architects, electrical contractors, builders, to acquaint them with it. And as I say, this old off-peak rate was available to the people during that period, if they wanted to use it. It was in about 1960, that, after considerable study, that we finally put in our so-called house heating rate.

[2242] XQ. Now, how does Management determine whether gas or electric service will be rendered to any given area? A. First of all, you are limited by your franchise areas, so that is the limiting factor. If you have an electric franchise in an area, I don't think Management has any choice. You have to serve it. In a gas area, it depends on whether you

can afford the cost of running the lines into an area and get a return on your investment in a reasonable period of years. This depends on the density of the population; how far you are from where you have to pick up your gas supply and other factors.

XQ. Are there not areas in the NEES system, where you have electric and gas companies operating in the same territory? A. You say, are there such areas?

XQ. Yes. A. Oh, yes.

XQ. Well now, in one of those given areas, how does Management determine whether the gas or electric service will be rendered to a new area? A. If Mr. Dalbeck and his Gas Division feels they can extend their lines in a given area, and it meets what they believe is a reasonable chance of showing a return on going into that area, they are never stopped from doing so. They make the same decision that a Management would make if they were running an independent gas company.

[2243] XQ. Well now, let's go back again to this assumed area that you have—this new subdivision development—and I say you have to take the lines in there for the electric light, in those homes. Forgetting for the moment the gas—I mean, the house heating aspect of it—is not the electric stoves and the electric water heaters and other electric appliances on a competitive basis, both as to cost and service cost, with gas? A. Yes.

XQ. Well now, how do you determine—again forgetting the house heating end of it—how do you determine which one of the services will be pressed or pushed in a particular area? A. There is never a decision made as to which service is going to be pressed to push in an area. The salesmen in that area sell. If they can sell one, they sell that; if they cannot, they sell the other. We are just not selling gas against electric, or electric against gas. Oil is also another competitor. One of the reasons we feel that it

is to the best interest of our stockholders in the system, lies in our uncontrolled competition between the two; that we are competing, not only with each other, but with oil as well.

XQ. Well, since you have to make capital expenditures [2244] to take electric into a given area, would it not be more economical to render electric service in the area, rather than to make capital expenditures, to take the gas in? A. I don't believe so.

XQ. Do you know whether or not you made any study along that line, to determine which would be the most economical? A. I don't think a general study would help, Mr. Nowlin, because whether a given area is profitable or not, depends so much on the individual circumstances, and it might be profitable one day, and not the next. Usually, it takes time for the area to develop, to reach its potential, but in the example that you gave before, of the electric operation earning six percent, and the gas operation earning five percent, just because you made an electric extension into an area would not mean you were going to make six percent on that extension. You might make much more, or you might make much less, because the rate of return, as you well know, is an average of thousands of situations, some of which are more profitable than others.

The same is true of the gas. You might very well run the gas into this same area, and make 10 percent in that area, where the company was making five percent return.

XQ. Well, doesn't the Management make a study of those [2245] potentialities to determine, before they go in there, which would be the most economical development? A. No. If the gas can be shown to be able to make a reasonable return in that area, and it is the judgment of the Gas Division that they can and should operate in that area, they go ahead and extend their mains into that area.

XQ. Without having made any predetermined study as to whether it would be economically feasible or not? A. I just said, they make the study to see whether the gas cost of extending the gas into the area is economically feasible. The study that is not made is whether the gas or the electric should get preference. That is never made. No.

XQ. Well, once you have made your study for the economical development of an area, either with electric or gas, assuming it was more economical to develop with electricity, would you still permit the gas to go in and make the expenditures for the area? A. If they could show that they could make an economical development of the area, they are certainly entitled to go in there and attempt to sell the business. Yes, sir.

XQ. I will try it again. Let's assume you make a study. It is determined, pre-determined, that from the system viewpoint, it would be more economical and beneficial to [2246] develop this for an electric area, rather than make the expenditure for gas. Assuming that, would you still direct the gas to go into the area?

Mr. Dunn: This again, is an assumption, which the witness said he does not accept.

Mr. Nowlin: Well, Mr. Examiner, I might state this. I imagine it is almost a daily occurrence up there—a monthly occurrence—where you have a new subdivision going in. I would assume, from Mr. Krause's testimony, that they make studies to determine the economic feasibility of carrying one or the other services in that area.

The Witness: That is not what I said, Mr. Nowlin.

I said the gas, if they have to extend their mains in on a new area, they make a study whether it is feasible to extend the mains that far; whether there is potentially enough business in that area at that time, to warrant the extension of the mains. If they do, they extend their mains into that area, then it becomes a matter of selling by the salesman in

that area, as to whether they can sell the new homes electric equipment or gas equipment.

There is no study made as to whether you can afford to extend your electric installation into that area, because, in the electric business, lighting is a necessity, and if it is in your franchised territory, you very well extend it.

Now, on occasions, we have an extension policy [2247] that might require some investment by the builder, if he is so far away from the main lines or something like that, but generally, there is no study made as to whether you have to—whether you can serve an electric area. You just do.

XQ. Well, now, forgetting again about electric house heating, when you take electricity into the area for lighting, what additional expenditure would you have to make for the electrification of that area, in order to serve electric stoves, electric water heating, and the other appliances? A. That would materially increase the demand on the feeders. You would probably have to have more feeders. Certainly there would have to be more transformer capacity in the area.

XQ. Don't you ordinarily, when you are going into a new area, provide for future developments in making those additions? A. You might not put them all in at the same time, but certainly, you would attempt to build it in such a way that it could be strengthened if needed.

XQ. So that the initial expenditures which you make into a new area, are of such volume, to serve that area whatever developments occur. Is that correct? A. Not exactly, no. If you know that you are going to have all electric house heating or all electric stoves and [2248] water heaters, you would have to build it a little differently. More expensive.

XQ. Excluding the electric house heating, would you not have substantially the same dollar investment going

into a new area? A. It would be close, but it would not be the same.

XQ. Well now, having made that initial capital expenditure for electricity in there, and having equipped yourself with ability to serve electric stoves, water heaters, and so forth, would it not be more economical to develop the electric load than it would the gas load? A. We don't believe so.

XQ. Why? A. Because we firmly believe our electric business and our gas business can be best fostered by allowing them to compete for the business in any given area.

XQ. Irrespective of the capital expenditure required? A. I assume that the expenditures will take care of themselves.

XQ. Do you know whether or not any of the gas subsidiaries have any all gas services except for lighting, within housing developments in the service areas of the electric system? A. This is an electric area?

XQ. Do the gas subsidiaries have any all-gas services [2249] in the electric service area? A. Surely.

XQ. Excluding light? A. Surely. Surely.

XQ. Do you mean the house is heated by gas, and the refrigeration by gas, and the stove by gas? A. I would doubt whether the refrigeration would be gas but I am sure we have areas where it would be gas heated; gas ranges; gas driers; gas hot water heaters.

Electricity would probably only be used for lighting and for refrigeration.

XQ. And air conditioning? A. Well, the gas people really do not have a good air conditioning setup except on a central air conditioning basis, and there are very few such central air conditioning set-ups in a residential area in New England. Most of the air conditioning in New England is in homes, done by room air conditioners, which normally would be electric.

XQ. Do you have any electric subsidiaries within housing

developments in a service area of the gas companies that have all electric services? A. Yes.

XQ. Is that general or an exception, as a rule? A. I don't think you can generalize on it. I don't think you can generalize on it by areas: nor can you [2250] generalize on it from the point of time.

Again, it depends on the individual builder, what he thinks he can sell. He may have a prejudice against electric. He may have a prejudice against gas. People's reactions vary in areas. Some people have grown up in gas homes and when they buy a new home, that is what they want. Other women have been used to electricity. That is what they want. If the builder thinks that he can sell electric homes better than he can sell gas homes, that is what he builds.

XQ. From the viewpoint of Management, who determines whether a given area will be all electric or all gas? A. Management never determines that.

XQ. How is it determined?

You say you have both. You have all gas. You have all electric. What is responsible for that? A. You said all electric developments. You did not say the whole area was gas or electric. Is that correct?

XQ. No. I said here—

Hearing Examiner: Off the record.

Discussion was had off the record.)

Hearing Examiner: On the record.

I will ask Mr. Nowlin to re-state the question, if he has it written out there; to re-put the question.

By Mr. Nowlin:

XQ. The first question I asked do any of the gas [2251] subsidiaries in the NEES system have any all-gas services, except electric lighting, you have to have light within housing developments, in service areas of electric subsidiaries? A. I think the answer to that is yes, and I understand by

that question that—do you mean that in areas where we serve both gas and electricity, that a definite or a single housing development might go all gas?

XQ. That is right. A. The answer to that is yes, but you might have one next door that is all electric, that would be in the service area of the same two companies.

XQ. Well now, the next question is, who and what factors are determinative of those exclusive developments? A. The opinion of the builder or the owner or the developer, as to whether he wants gas in his development, or whether he wants all electric.

XQ. Do you mean the Management has nothing to do with whether they use gas or use electric? A. The only thing we have to do with it is to make sure the electric salesmen and the gas salesmen do the best job they can to sell their respective product to this new builder.

Hearing Officer: Well, Mr. Krause, do I understand from what you said in your testimony, that when a developer of [2252] a new subdivision decides he is going into the building proposition, does he come to your company and make application for the service he wants in that particular subdivision? A. Well, if our salesmen are doing a job, Mr. Swift, they are aware that a subdivision is going to be built, and they are out there very quickly, telling him that he ought to go all electric or if a gas salesman, he is telling them they ought to go all gas.

Hearing Officer: I think I recall that from your testimony, your salesmen approach the builder, and then the builder decides what he wants to do.

Is that correct?

The Witness: Very definitely.

By Mr. Nowlin:

XQ. In the course of the previous testimony, reference was made to Bronze Medallion Homes, and Gold Medallion Homes. As I understand it, your Bronze Medallion Homes

in the NEES system are all electric except for house heating. Is that correct? A. That is generally true. They have to meet certain standards of lighting. This is not to a NEES standard, Mr. Nowlin. This is a standard that was developed by the Sales Division of the Edison Electric Institute, and requires certain major appliances, certain standards [2253] of lighting, and that type of thing, and if they meet that, then they are allowed to display a Bronze Medallion. It is a sales feature, which a builder employs in selling the home, and the public is used to seeing the advertising of General Electric, Westinghouse, and other equipment manufacturers, as to what this means, and then they have some idea that this home meets that standard.

XQ. Now, do you know how many of the Bronze Homes are located within the service area of the gas subdivision? A. No, I do not.

XQ. Do you know how many Bronze Electric Homes you may have in the NEES system? A. I don't believe I have that data with me. I imagine there are quite a number of them.

XQ. Would it run into the thousands or hundreds or do you have any idea? A. Oh, it would run into the thousands.

XQ. Now, how many Gold Medallion Homes are there in the NEES system? A. Well, the Gold Medallion Homes are Bronze Medallion Homes with electric heat, but not all electrically heated homes can qualify for the Gold Medallion because the builder might skimp a little on the amount of lighting he put in the house. I don't have the figures for the Gold Medallion Homes, but I do have the figures for electrically heated [2254] homes at present, and as of a recent date, there were 459 such electrically heated homes.

XQ. Do you mean all electric heated? A. Yes. Where electric heat is the sole source of comfort heating.

XQ. Does that mean in the entire system? A. Yes.

XQ. And would the number of Gold Medallion Homes

be less than that figure, do you think? A. It might be a few less but I say roughly, they are pretty much comparable, because usually, a builder would be willing to spend a few extra dollars. Usually it is in the wiring of the lighting, I mean, that where the skimping is made, usually you spend a few extra dollars to get the Gold Medallion.

XQ. Do you know how many electric homes you have installed since the introduction of the special rate?

A. Well,—

Mr. Dunn: Do you mean electric heated homes?

Mr. Nowlin: Yes.

The Witness: Up to December 1958, we have 61 electrically heated homes. In 1959, we added 66 more. In 1960, we added 289 and it was in the early part of 1960 that the house heating rate went into effect. The three months of 1961, we added another 43.

[2255] XQ. Now, will the advent of your Atomic Energy by virtue of the Yankee Plant, tend to help you with the installation of additional electric heating? A. The only way it could help would be if it appreciably lowered the cost of making electricity, and Yankee has not done that.

XQ. Do you know what the NEES promotional rate for electric house heating is? A. Again, I would say it is not a promotional rate, Mr. Nowlin.

XQ. What is your term? I will try to adhere to that.

A. House heating rate.

XQ. Electric house heating rate? A. Yes. At present fuel costs, it is \$10.00 for the first 400 kilowatts per month and then 1.9—about 1.94 cents per kilowatt hour for each additional kilowatt hour.

Now, that first 400 kilowatt hour, takes care of the normal use in the average size house for electrical appliances, other than heating, and we would assume that if a man had electric heating, he would have electric range, electric hot water heater, too.

XQ. Taking a given house, say a new house, either eight or ten rooms, whichever assumption you want to take, how does the cost of electric house heating compare with [2256] that of gas house heating? A. What kind of a house do you have? Does it have the same insulation or does it have insulation recommended for gas heated house, or electrically heated house?

XQ. Well, just assume that it is wire for either. I mean, built for either, or is that possible? A. Well, I don't think you would find in the average gas heated home, they would insulate it by the same standards they would for an electrically heated home.

XQ. Well, could you give us—take one insulated for electric heating; one built for gas heating. Could you give us the competitive cost there? A. Our electric people say that it costs from \$8.00 to \$10.00 a month more to heat by electricity than by gas.

Now, if you were willing to spend extra money for insulation in your gas heated home, you could probably broaden that difference.

XQ. Could you tell us briefly how your electric heating operates? Is it radiant heating? Do you have any hot water electric heating? Just how is it? A. In New England, practically all of the installations are resistance type heating, either by having resistance rods in baseboard units, or by embedding resistance wire in ceilings, and of course, if you did that, you would have a radiant type heating, as compared with the conventional type [2257] if it were in the baseboards.

XQ. Are you familiar with the electric house heating in the American Electric Power System? A. Generally.

XQ. Do you know whether or not the type of house heating—electric house heating—they are installing is the same thing as you are installing in NEES? A. I think in the American Electric Power System, they are in an area where

they make greater use of the heat pump and they have not seemed to develop a heat pump yet which will work satisfactorily in the New England climate.

XQ. Do you know how the rate of growth of electric house heating in the NEES system in 1959, in 1960, compares with the growth of the gas house heating during the same period? A. Well, I think the gas is ahead of it. You understand that you have a different potential market for gas house heating than you do for electric house heating. You can sell a gas house heater to a man who has hot water or steam or hot air system that may be 20, 30, 40 years old. The only thing you are selling him is the method of making the heat. He uses the same equipment for conveying the heat to the room. By and large, a customer for electric heating has a new home, because I don't think many people would junk their [2258] existing heating system to put electric heat in. It would not be economically sound. There are some conversion jobs in electric heat but by and large, they are real old homes where the heating system is no good and you start over and make the whole house over. So that the potential market for electric heat necessarily is much smaller than for gas heat because you are, by and large, dealing only with the new homes.

Mr. Nowlin: Mr. Examiner, that is all I have of Mr. Krause at the present time.

The Witness: Thank you.

Hearing Officer: You may retire from the stand, Mr. Krause.

(Witness excused.)

Mr. Dunn: Mr. Examiner, this morning it was stated on the record that counsel for the Commission and counsel for the Respondent would confer as to information requested with respect to the amount of electric operating revenues that were brought down to utility operating income.

We find this information is contained in the Annual Statistical Reports in the years 1958-1959, that are already in the record as Respondent's Exhibits 76 and 77 and it is my understanding that this is the information they are requesting.

Hearing Officer: Thank you, Mr. Dunn.

[2259] Whereupon,

HAROLD L. DALBECK

was recalled as a witness, and having been previously sworn, was examined and testified as follows:

Cross Examination

By Mr. Nowlin:

XQ. Mr. Dalbeck, at page 756 of the transcript of the hearings, you referred to interim service under the G-6 rate and peak service at a flat rate of 90 cents.

Will you please explain the difference, if any, between the two services? A. Yes.

The peak service rate at 90 cents was a rate that was offered by Tennessee Gas Transmission to the New England companies, and was approved by the Federal Power Commission on a year-to-year basis. That rate was refused to the New England Companies in 1959, and at that time, the Federal Power Commission did authorize the so-called interim service. This interim service is not in any sense a peak service rate. This interim service only gives to the companies in New England, a right to take gas beyond their authorized daily quantities, but at regular G-6 rates.

XQ. Can you tell us what the G-6 rate is? A. The G-6 rate is the general service rate under which we buy gas that carries a demand charge of \$5.55 per M.C.F. of [2260] demand, and 36.1 cents commodity charge. That is the rate under which we buy all our gas at the present time.

XQ. Is the interim gas billed to you separately with a

separate load factor? A. It is not billed in a separate load factor. It is billed separately over and above the authorized daily quantity that is authorized, through the Federal Power Commission but it carries the same rate and is extended the same amount as the G-6 rate.

XQ. According to Exhibit No. 62, the interim services expired on October 31, 1960. Is that correct? A. That is correct. For that year.

XQ. Were these interim service contracts extended? If so, at what price, and for what period? A. The interim service rate, was again approved by the Commission for the 1960 and 1961 winter, under the same terms and conditions as the rates, the interim service under which I have described.

XQ. There was no increase in rates than? A. No. No. It is at the same G-6 rate.

XQ. How does the cost for the interim gas compare with the previous price of 90 cents per M.C.F.? A. Substantially in excess.

XQ. Do you know what the figure is? A. Well, that will vary. That will vary, depending upon [2261] the amount of gas that you take in any one day.

In other words, there is an economical level at which we cease buying interim service, or G-6 service gas and that figure is around \$1.70 to \$2.00 an M.C.F. You can pay as high for interim service gas if you only took one M.C.F. as the demand charge, plus the commodity charge for that one M.C.F. of gas.

XQ. What advantage do the NEES gas companies get from the interim service? A. The only advantage that NEES gets from interim service gas, is to those companies whose authorized daily quantity as approved by the Federal Power Commission, is presently being exceeded. In other words, the company that had an authorized daily quantity of 8,000 feet per day M.C.F., per day, then this interim

gas is available to them at an amount they stipulate in excess of the 8,000 feet for this one winter.

XQ. Mr. Dalbeck, are you familiar with the order entered by the Federal Power Commission under date of January 28, 1959, in Docket No. G-11-107? A. Yes, sir.

XQ. According to the order which we have before us, it directs Tennessee Gas Transmission to "include as a part of its next major certificate application, a firm proposal for the full incorporation of its underground storage facilities, into the overall operation of its [2262] pipe line system, and the full utilization of its storage capabilities, and rendition of its natural gas services on a reasonable, fixed, and certain basis, to secure the maximum benefits thereof, equitable to all its customers." Then there is a footnote: 21 F.P.C. 84.

In its opinion accompanying that order, the Federal Power Commission stated that the program should be expeditiously developed, "to supplant the proposed long term peak service we are denying by this order." (21 F.P.C. 81.)

And it is stated further, on the same page of the opinion:

"Of course, the rates, terms and conditions of this service would have to be designed by Tennessee, responsive to the New England market. While the rates should be fair and non-discriminatory, they should be sufficiently low to assure the availability of the service in helping to meet the needs heretofore met by the peak service, denied by this order."

Now, Mr. Dalbeck—

Mr. Dunn: What page is that?

Mr. Nowlin: It is on the same page.

I was continuing on.

The foregoing is apropos of your testimony, page 758, as follows:

Hearing Officer: Wait. Let him get the testimony in front of him.

Mr. Nowlin: On page 758.

[2263] Hearing Officer: Go ahead, Mr. Nowlin.

Mr. Nowlin: This is the quote.

"Is the elimination of peak or storage service a serious blow to New England Companies?"

"Answer: Yes, it is. We estimate that the elimination of this service will cost the NEES system gas companies about \$500,000 per year."

Question: Isn't it possible, Mr. Dalbeck, that the increased cost to which you referred may be considerably relieved if not eliminated by future developments along the lines set forth in the F.P.C. order and opinion, which I have just quoted.

The Witness: Well, I don't think we can assume that this Federal Power Commission order, as quoted, will necessarily ever be made effective insofar as the New England area is concerned. In the first place, as I understand the rights of the Federal Power Commission, they cannot order Tennessee to file any rate at any price. Tennessee has the initiative to file its rate and once filed, then the F.P.C. has the duty to determine the appropriateness of the rate.

The order that you referred to, dated January 28, 1959, under G-11-107, was followed insofar as the Tennessee certificate case was concerned, and they did suggest, in fact they incorporated in the certificate a storage service rate. This storage service rate was substantially in excess [2264] of what the cost of gas was to us under a peak shaving rate.

As a matter of fact, we figured the cost to our company somewhere about \$1.40 to \$1.50 but even that was not made available to us because immediately, in that certificate, when the rate was filed, some of the other distribution companies down the line, specifically Columbia and Northern Natural, took such violent objection to even this storage service rate at the \$1.40 to \$1.50 rate, and also due to the fact that, because of the late filing, in order to get any gas

at all, any additional gas at all in the winter of 1960 and 1961, Tennessee withdrew this storage service rate and included only in their certificate the additional gas that the New England companies requested. And Tennessee did include this interim service feature which gave us the additional authorized gas at the G-6 rate.

Now, this is where we stand now, insofar as peak saving or peak shaving or storage service gas is concerned.

There is no indication at this time, that we are going to be in any position other than our present position.

XQ. Has anything developed, Mr. Dalbeck, with the part of the order which directs Tennessee to incorporate in its next certificate application, a provision for underground storage facilities? [2265] A. No, sir.

XQ. So any developments along that line are for the future, is that right? A. Any developments, if they come, are for the future. Yes.

XQ. Do you have any knowledge of whether or not Tennessee is now working on a project of that nature? A. To the best of my knowledge, they are not.

XQ. Now, with respect to your estimated \$500,000 of costs to the NEES gas companies, to what extent if any has this increase materialized since you last testified in this proceeding? A. When we estimated the \$500,000, that was for a winter season, from August to May 31. The actual effect on our operating revenues for the year 1960, as near as we can estimate it, is around \$350,000.

XQ. Is the impact of that increase going to require an application for a rate increase from the State Commission? A. That is something that will have to be decided as time goes on. I think, as I previously stated, we are attempting to build our load just as fast as we can, to try to offset these increased costs by increased revenues, and I would be hopeful that we can proceed without increases, but this is something that—

[2266] XQ. Am I correct in my understanding, this was only a non-recurring situation, and that your interim service has been restored for 1960-1961?

Is that correct? A. Insofar as the cost of gas is concerned, it is not a non-recurring item. Insofar as we can see, into the future, and certainly I am talking of what we know of the year 1961 and 1962, we are going forward under the same conditions and under the same additional authorized gas at the G-6 rate as we are now experiencing. I see no relief in that, at this time.

XQ. What did the interim gas actually cost you, Mr. Dalbeck, for the winter season of 1960-1961? Per M.C.F.? A. That would be a very difficult—I don't think that question is answerable because it all depends on where in the step of the demand charge the gas that you are talking about is purchased.

XQ. Is it your testimony then, Mr. Dalbeck, that the only effect of the interim gas is to give you a larger quantity of gas? A. Absolutely. That is all. That is all it does.

XQ. Now, directing your attention to Exhibit 67, this exhibit shows that the cost of natural gas for space heating at Malden, Massachusetts, is 97.59 cents per M.C.F., on the basis of 27 percent load factor. On page 866 of the [2267] transcript, you stated that 27 percent is the approximate average load factor for space heating gas.

Please explain that statement. A. Well, when we take the figure of a 27 percent load factor, we are taking that on the basis of the average degree days that we estimate for the year, in relation to what we consider to be the maximum degree day, and that happens to be approximately 27 percent of the maximum day. So that, in other words, gas for heating is taken above the average for the day, or the average day.

XQ. Well, do you know, Mr. Dalbeck, how that gas is taken? A. This has to be a theoretical computation. We

know what our firm load is, or we estimate what our firm load is, insofar as water heating, ranges, driers, and so on; and having established that so-called firm load, then the load that is taken above that firm load is assumed to be house heating gas and it is theoretical but it is a measurement.

[2268] XQ. Does the cost of 97.59 cents per mcf shown on Exhibit 67 become a cost of \$1.11 per mcf because of the rate increase on the Tennessee Gas Transmission Company in April, 1960? A. Yes, sir.

XQ. In comparing the cost of space heating gas with the price of number 2 oil on Exhibit 67, how do you justify the use of 27 per cent load factor to arrive at the cost of gas?

A. Well, I think we have assumed a 27 per cent load factor as what we consider to be the average load factor for gas and we base it at that point in the comparison with oil. This is a figure that is normally used.

XQ. Is this type of comparison a customary method used in making a cost comparison between space heating in gas and oil? A. When we come to making a comparison of the cost of heating between gas and oil, then we leave the load factor area and we move into the specific area of btu's in the oil as compared to the btu content of the gas, the size of the house and determining heat loss and making our comparison on that basis.

XQ. Page 867 of the transcript you stated that the NEES gas companies do not actually buy gas at the 27 per cent load factor and that the price paid was something lower than the 27 per cent load factor price. Did you make that statement? [2269] A. Yes. I think on an overall basis the gas we buy is probably closer to a 50 to 55 per cent load factor, but for the average of the space heating gas which we must take over and above that average, we reduce the load factor of the house heating down to the 27 per cent.

XQ. At page 762 you stated that our companies have a

firm gas load factor in the range of 40 to 50 per cent. Can you give us the load factor for each of the NEES gas companies? A. No, sir. I think it would generally apply consistently throughout the companies, but I haven't it for each individual company.

XQ. Do you know or can you supply for the record the load factors at which the Massachusetts Gas Companies reflected on Respondent's Exhibit No. 90 purchased their natural gas? A. No, I don't think that would be obtainable.

XQ. Apart from the price factor, what other factors enter into the competition between gas and oil as a heating fuel? A. In addition to the price factor, we consider the cost of electricity, the service on the oil burner, the cleanliness of gas as compared to oil, the service that the gas company gives to a heating customer as compared to the service that he can expect from oil, all those are important elements in comparing gas as a fuel with oil.

[2270] XQ. In designing a rate for space heating, is it the practice of NEES gas companies to use a 27 per cent load factor? A. Load factor does not come into the design of the rates.

XQ. What factors do you take into account in presenting it? A. Well, when the rates for house heating were originally set, they were set at the rate that was considered an adequate return on the investment devoted to house heating would give and also without question of a doubt the competitive market was analyzed to determine at what price gas could be sold.

XQ. What do you actually get from the house heating customer for gas heating? A. Do you want to take a specific example or do you want in general?

XQ. Give it to us both ways, if you will. A. Well, at the present time for the 12 months ended February, 1961, based on present costs of gas and present costs of oil, and assum-

ing an average house, using 120 mcf of gas, with a 75 per cent efficiency, we estimate the cost of gas to be \$170.00. The cost of oil, including electricity for the burner and oil service at \$13.50, which is a range that would run from 10 to 20 dollars, would cost \$172.00. So that at the present time we are on almost an equal basis fuel for fuel with oil. [2271] XQ. In general, what do you get per customer for mcf for gas house heating? A. Well, the lowest of our rates for house heating is \$1.41 and a fraction and most of the house heating is at that rate.

XQ. Would that \$1.41 for gas compare with \$1.09.14 for oil? A. Now you are back on Exhibit 67?

XQ. Yes, sir. A. No, because this figure for oil does not take into consideration the efficiencies of oil and neither does it take into consideration the use of electricity or service on the oil burner.

XQ. If you take those into consideration, Mr. Dalbeck, what figure would you get for oil? A. Then you get up to about—well, you get close to a dollar and thirty and thirty-five.

XQ. What efficiency factor did you consider for the oil? A. For the oil, 65 per cent.

XQ. And for the gas? A. Seventy-five per cent.

XQ. Now, I am having a little trouble with comparing the cost of gas at a 27 per cent, what I will call a fictitious load factor, when you are actually buying the gas over the year on an average of 50 to 60 per cent load factor. Is it [2272] fair to compare the 27 load factor on house heating rather than to use the average load factor cost for the year? A. I think that first on Exhibit 67 you have to recognize that what we are talking about on this exhibit is the city gate cost of gas. In other words, this is what the gas cost us from the pipeline company at the city gate and is not the selling price of the gas, and also the cost of oil is the

cost of oil as priced in the market and takes no account of efficiencies.

XQ. Well, I don't think you still answered my question. The problem I have is using a 27 per cent load factor to determine the cost of gas as compared with oil when you take your gas on an average load factor for the year between 40 or 50 per cent, don't you? A. Yes.

XQ. Now, how can it be fair, then, to use a conjectural 27 per cent load factor for comparison with oil rather than the average load factor for the year, 40 to 50 per cent? A. This exhibit was not intended to reflect the comparative selling price of or, rather, the comparative cost to the customer of either oil or gas.

XQ. No, but you are making a comparison here of the cost of gas to the cost of oil; isn't that right? A. Yes.

XQ. And you are using a 27 per cent load factor as a [2273] basis for the cost of gas and really you buy your gas on an average annual load factor of 40 to 50 per cent. A. But that annual load factor of 40 to 50 per cent takes in a tremendous amount of firm load gas that could be up in the range of 80 to 85 per cent load factor.

XQ. Isn't it a fact— A. So that if you take a firm load that might be an 80 or 85 per cent load factor and the low load factor of house heating, you come to this house heating load factor of 27 per cent.

XQ. Aren't you attempting to segregate out one phase of an annual load factor and price that at one price and price the other gas at a different price? A. Yes, but the purpose of this exhibit was only to show comparisons as between various communities within the United States. It wasn't intended to be definitive, a definitive statement of our price of gas as compared to the price of oil.

XQ. I may be a little dense on this and if I am, I hope you will clarify it for me, but as I see it, what you are doing

is you are comparing the cost of gas with the cost of oil.

A. Right.

XQ. Now your gas, the annual average costs, the average taken on an annual load factor is 40 to 50 per cent, [2274] isn't it? A. Yes.

XQ. And isn't the cost of gas to the NEES System based on that annual average load factor of 40 to 50 per cent? A. Yes.

XQ. Then I have difficulty in seeing how it is fair to compare a 27 per cent load factor, assumed 27 per cent load factor with the cost of oil. A. Well, because the 40 to 50 per cent load factor includes gas that is purchased by our customers throughout the year. The house heating gas is purchased over a relatively short period of time during the winter months and reaches a maximum within maybe a week or ten days of the total winter season and that obviously will reduce the load factor of the heating gas.

XQ. Well, what you are doing is comparing a seasonal cost of gas with the cost of oil, rather than your annual cost of gas, aren't you? A. I think for house heating you have to take a seasonal cost of gas.

XQ. You think that is a fair comparison? A. Oh, yes, it has to be.

XQ. Well, now, how about the cost of oil? Doesn't the cost of oil vary off and on during the year and don't they have an average annual cost, rather than a heating season [2275] cost? A. Well, in order to determine an average cost of oil, you would almost have to take daily or weekly prices and average that through because oil has the characteristic of being low in the summer and then as the heating season increases, reaching its peak and that peak depends to a very large degree on the amount of demand that there is for oil so that it really reaches, oil reaches its peak probably for only a week or two weeks of the winter season.

It is a little bit difficult to average the price of oil, particularly for the heating season.

XQ. Now, isn't most of this oil purchased in the off-peak season, in the summer months for the oncoming use in the winter? A. No, not in the residential district.

XQ. In other words, the thing, it seems to me, comparable, if you had storage facilities you would purchase your winter gas in the summer at a cheap rate that most of these other companies do and I assume the oil companies would do the same thing, they would purchase the cheap oil in the summer for the winter use. A. The oil companies may do that to a degree, but the customers normally will only have a 275 gallon tank in their backyard and that is the limit of their storage.

XQ. Let's assume a hypothetical situation, that you did have a storage facility in New England to store gas and purchase [2276] it during the summer value period, where you could get it at a cheaper cost. If you had that situation, would it be fair then to compare the load factor which that gas was taken in the summer months with the winter months? A. Oh, I think at that point, if we had storage in New England, then this 27 per cent load factor figure might very well vary. As a matter of fact, it might get up to the 40 to 50 per cent average that we speak of.

XQ. That is the one thing that was confusing me because several of these companies buy their gas in the summer months at the cheap price and put it in the ground, rather than to price it out at the cost in December or January. A. I wish we could, but there are no facilities in New England for that sort of thing.

XQ. Now, along that line, at pages 764 and 863 and 873 you indicated that studies were underway for providing more economical peak shaving gas. Do you recall that?

A. Yes.

XQ. Will you tell us the nature of these studies and what

progress has been made? A. Well, following a line break of the Tennessee line coming into New England, the New England Companies that had production facilities were forced to produce gas for the benefit of other companies that did not have those facilities. That called attention to a situation that the New England [2277] companies considered to be rather critical, so that as a group all of the New England Companies who were customers of either Algonquin or Tennessee combined to study the plans for emergency gas. As a result of preliminary studies, we chose Stone and Webster Company, feeling that they had the most experience in the field, to go into this situation and they did in a preliminary form. This study involved obtaining information not only from each company, but from both the pipeline companies and melding together the complete facilities of New England into one system, really, so that we could see what was required insofar as emergency service. They investigated cavern storage, discarded that; they investigated L.P. air, they discarded that; they investigated transmission of LP gas through pipelines, discarded that. They finally came up with a recommendation that seemed to indicate that a liquefied natural gas plant might be a logical answer for New England. Based on their preliminary findings, the companies authorized Stone and Webster to proceed with an investigation of a liquefied natural plant, which would be located in the New England area and which would serve not only as an emergency supply of gas for New England, but also could be used as a peak shaving plant in the winter. That report has been submitted by Stone and Webster to the companies. It looks as if it does have some merit. Certainly there is a possibility that this is worthy of consideration, but there are a number [2278] of factors that have still got to be considered. Practically, this plant could probably be built. Unfortunately, however, insofar as the

New England companies are concerned, we are still not talking about any cheap gas because their studies indicate that this liquefied natural gas would cost us about \$1.57 a thousand at the liquefied plant. This \$1.57 includes, of course, return on investment. Then you come into the problem of once you have built this plant, have got the plant in the process or to the point where it can produce this gas you still have got to make arrangements with the pipeline companies for the transportation of this gas from this plant through the system so that it can be fed into the distribution companies' own systems. At this point, there has been no indication from the pipeline companies, first, that they are even interested in transporting this gas and, secondly, if they do transport the gas, how much it is going to cost us. This liquefied natural plant feeding all of the companies of New England also creates a problem as to who is going to own this plant—is it going to be a Yankee atomic type of ownership with all of the gas companies participating; is it going to be owned by either one or both of the pipeline companies; is it going to be owned by some processor who is willing to come into New England and build the plant and sell the gas at the plant through the pipeline to these companies. These problems are still unresolved and, as I [2279] say, the economies of the thing indicate that it is a practical thing to do, but at the moment it looks as if this is more or less a standoff with our own existing LP air plants insofar as cost of gas to the distributing companies that are concerned.

The study is still in progress. Serious consideration is still being made as to the problem. There are a lot of very complicated and intricate problems to be solved and work is still going ahead on it. This is not going to mean cheap gas to New England.

XQ. I have here before me an excerpt from the News Digest which I will show you and see if this is the project

that you were talking about. A. I think it is the same project, except that that relates the movement of liquefied methane from outside of the U. S. and tanking it up here and this is not a part of this program. This was considered and discarded, too.

XQ. This project mentioned in this Digest has been discarded? A. Insofar as the transportation of liquefied methane through tankers into New England, yes, but I think that this refers to the project, the same project that I have been discussing when it says that New England Gas Companies are about to move, but they are a little premature because we are not about to move.

[2280] XQ. According to this article, the best tank plants of storage area would be around Worcester, Massachusetts. A. The recommendations of Stone and Webster indicated that the most desirable place for this plant would be at a location that would be between the two pipelines; that is, the Algonquin line coming up through Connecticut and the Tennessee line coming in from New York State and the location that they have recommended is within the vicinity between Worcester down to the Rhode Island line in that Auburn, Oxford, Worcester area.

Mr. Nowlin: If there is no objection, I would like to incorporate this into the record.

Mr. Quarles: Might we at least have an opportunity to look at it and see what it is we are talking about?

Mr. Nowlin: Surely.

Mr. Quarles: Mr. Examiner, I am not familiar with this Digest, but examining it hurriedly I find this note: "The News Digest is issued for the information of the members and staff of the Federal Power Commission. The appearance of any material herein taken from sources outside the Commission does not indicate approval by the Commission of such material or of any opinions expressed or implied therein."

I question the relevancy of this or the value of it in this record. I don't see that we have any particular objection if Mr. Nowlin wishes it to go in, but I doubt its [2281] usefulness.

Mr. Nowlin: My thought was, Mr. Examiner, we did ask a few questions and the witness said this was the project to which he was referring and I thought it might be of value.

Hearing Examiner: Are you offering this as a Division exhibit?

Mr. Nowlin: Yes, sir, if there is no objection I would like to.

Hearing Examiner: I didn't understand there was an objection on the part of counsel, Mr. Quarles, and the News Letter which you have been interrogating the witness about is admitted as Division's Exhibit No. 5.

(Division's Exhibit No. 5 was marked for identification and received in evidence.)

Mr. Quarles: And I assume that we would have the right, after examining it, to ask questions about it.

Hearing Examiner: Oh, yes.

Mr. Nowlin: I don't know whether he could ask questions because none of us know any more than what the document says.

Hearing Examiner: Well, we will cross that bridge when we get to it.

Mr. Quarles: Do I understand from you, Mr. Nowlin, that neither you or Mr. Gishman know anything about this so you [2282] wouldn't be able to ask questions about it?

Mr. Nowlin: We know nothing more than what the document sets forth.

Mr. Quarles: I think we would object to its being entered, Mr. Examiner.

Hearing Examiner: Well, I think the objection goes to

the weight to be accorded this and I adhere to my ruling. You may have an exception, Mr. Quarles.

Mr. Quarles: Thank you.

By Mr. Nowlin:

XQ. As a matter of general inquiry, Mr. Dalbeck, does this liquefied gas, is this comparable to what the East Ohio Gas Company used to have a few years ago when they shipped frozen gas up the river and put it into the tanks that later became liquefied gas? A. Unfortunately that is so and that is one reason why the location chosen by Stone and Webster is in this isolated area, because the Bureau of Mines' requirement for the location of this plant is that there be, I think, a half mile perimeter around from the center of the plant.

XQ. In general, what are the NEES gas company customer rates for house heating gas? A. Pretty consistently \$1.41, plus a fraction, which represents the escalation charge due to the price adjustment clause in the rate.

[2283] XQ. I think you said the comparable figure for oil was around \$1.35; was that correct? A. What?

XQ. A dollar thirty to a dollar thirty-five. A. I don't understand.

(Question read by reporter)

The Witness: Yes, converting the 75 per cent load factor.

By Mr. Nowlin:

XQ. With this disparity in price, how have you been able to sell gas for gas heating in the New England area? A. Because on the basis of the example that I gave you, in spite of the fact that competitively oil and gas are practically at the same level, the benefits of gas heat progressively advertised, promoted, and driven home to perspective customers is resulting in our selling heating. They prefer gas heat.

XQ. As to the competitive situation for house heating in

New England as between the use of natural gas and the use of oil, are NEES gas subsidiaries in any different position than that of the other gas companies in the State of Massachusetts? A. I think in general the answer would be no. There may be slight variations in our rates as compared with some of the other companies, but some are lower and some are higher [2284] than others. No, I think we are all in relatively the same comparative competitive position.

XQ. Now, do you know when each of the NEES companies began receiving natural gas? A. All companies, with the exception of Norwood, began receiving natural gas in 1952.

XQ. And when did Norwood get into it? A. Norwood got its gas in 1954-1953.

XQ. Do you know when the other non-affiliated gas companies included in Respondent's Exhibit No. 90 first received their supply of natural gas? A. The Tennessee customers all received gas in about 1952; the Algonquin customers in 1953.

XQ. Do you know which of the non-affiliated gas companies reflected on Exhibit No. 90 obtained their gas from Tennessee and which obtained it from Algonquin? A. Exhibit 90?

XQ. Yes, sir. A. Insofar as the NEES companies are concerned, Norwood Gas is the only one purchasing from Algonquin. Berkshire Gas, Tennessee; Boston Gas, Algonquin; Brockton-Taunton, Algonquin; Buzzards Bay, Algonquin; Cambridge, Algonquin; Fall River, Algonquin; Fitchburg, Tennessee; Haverhill, Tennessee; Lowell, Tennessee; New Bedford, Algonquin; Springfield, Tennessee, and the Worcester Gas Light Company receives most [2285] of its gas from Tennessee, but that portion of the Worcester Gas Light Company that was formerly the Dedham-Hyde Park Gas and Electric Company purchased from Algonquin.

XQ. Again referring to Exhibit 90, which of these non-

affiliated gas companies shown thereon converted to straight natural gas at the time that natural gas became available in Massachusetts? A. The only company that didn't convert to straight natural gas was the Boston Gas Company.

XQ. Do you know when they finally took on a straight load? A. Well, the Boston Gas Company has progressively through the years taken on increasing amounts of natural gas and there were certain areas which were primarily the outlying Concord-Acton area, a substantial number of their customers have always been straight natural gas or, rather, have been taking straight natural since natural gas came to New England. Boston Gas started with a five-sixty btu gas, which was purchased from the coke oven plant in Everett and they have gradually through the years increased their taking of natural gas until last year they converted completely to straight natural. Prior to that, I think in 1959, they were taking eight hundred btu gas as compared with natural gas at a thousand btu.

XQ. Now, on page 724 of the transcript, it is stated [2286] that one of your assignments was to organize a central office for the Worcester Gas Light Company, which later became a subsidiary of NEGLA; that is, New England Gas Light Association, if I remember right. In that connection you also stated that "initially general accounting, sales, purchasing, stores, transportation and top management were centralized and later customer accounting, as well." What did you mean by centralized customer accounting? A. Customer billing.

XQ. How was customer accounting performed in NEGLA prior to centralization? A. There were a lot of different combinations, including some hand billing operations in some of the smaller companies, combinations that I am sure many people here wouldn't recall where they used an adding machine and a Todd protectograph to write the amount of a bill. I would say that the customer's billing at that time

was relatively to the nature of the times and they were using what was considered to be modern equipment where they were using equipment.

XQ. In that connection, what was the purpose and objective of centralizing customer accounting? A. Well, when we originally organized the central office, we set up a general accounting, moved that to the central office and we found that once we had both general accounting in, we had machine time available to pick up [2287] customer's billing and that was the major reason for doing it.

XQ. Do you know how the customer accounting costs after centralization compared on a per customer basis with the prior cost? A. No, I don't recall that, sir.

XQ. Does NEGLA still have centralized customer accounting? A. Yes, sir.

XQ. Will you please describe for us, Mr. Dalbeck, the customer's accounting processes from the reading of the meter to billing? A. Well, the first thing that a prospective customer does is to either call or come into the office and request service, and at that point an order to connect service is made out and delivered to the service department where they go out and in the case of a gas meter they install the gas meter and in the case of an electric meter, they read the meter. Concurrently following that a meter sheet is developed or a change in the meter sheet is effected to show that customer's name and the meter book is held with this account until the meter reading date. At the time of the meter reading, the meter readers go into the field, mark on the meter reading sheet the dial registers, returns these books daily to the office, at which time the meter reading book is usually audited against previous readings to see that the [2288] reading is consistent. The meter books then go to a billing department where a bill is prepared, a proof of billing is made in order to assure the accuracy of the billing, the bill is sent, one copy of the bill being

sent to the customer, a stub is sent to the customer's accounting department, which becomes the bookkeeping record, the bill becomes payable within a reasonable period of time and the customer either sends a check to the office or comes into the office and pays the bill. The record of that payment goes to the bookkeeper; the bookkeeper posts it and at the end of each cycle or prior to the next meter reading period the book is balanced and the account reconciled. I am sure I have left out a lot of ramifications, but that is a routine without going too far.

XQ. Now, how is customer accounting done in the NEES System on a decentralized basis? A. The same way.

XQ. How was it done on a centralized basis? A. The same way. In other words, it makes no difference when you centralize or whether you do your billing at a local office. The same process is involved. The only difference is that the meter books go into a billing room or they are transmitted to a central office for billing. The process is the same.

XQ. Is there any problem involved, Mr. Dalbeck, in sending the meter reader book to a central billing office? [2289] A. No problem; only delay. And this is one of the disadvantages of centralized billing.

XQ. Now I believe in your previous direct testimony you gave us a time schedule of the amount of time that it would take to reach different points in the NEES system, didn't you? A. By driving, yes.

XQ. Do you think that that would involve a substantial amount of time, centralizing the meter reader's books in one point? A. You are assuming that you could justify and I will use the term—quote "Pony Express"—unquote to deliver books from a local office to a centralized office. That is done at times. Other times it is not the economical thing to do. That adds to the cost of centralized billing.

XQ. Wouldn't centralized billing give you a chance to

utilize the full manpower, resources and the machines, too? A. Oh, yes, but you have to balance one thing against another.

XQ. Aren't there times when your decentralized billing, when some of the people are not all employed eight hours a day, not all working eight hours a day at billing? A. Oh, I am sure that is so, but if they are not working at billing, they are working at something else because none [2290] of our employees have a classification that only confines their duties to billing.

XQ. Aren't there times when some of the decentralized machines, billing machines are not in use that they might be in use if you had centralized billing? A. I am sure that is so, but the economies that you might effect there could be offset by losses somewhere else, on some other area.

XQ. Page 1574, I think you testified that in the past you had made many studies of customer accounting procedures, particularly with regard to centralized billing. What studies were you referring to? A. Well, I was referring to the study that you referred to; I was referring to a study that we made in the Mystic Valley and Suburban Electric Company some few years ago when we merged those companies and had billing equipment in Arlington, in Suburban and—

XQ. Were any of those studies reduced to writing? A. To my recollection, I would say no.

XQ. Did you make any study with regard to the advantages, if any, of centralizing customer accounting, particularly billing for the pro forma NEES gas companies' operation and on a combined basis? A. No.

XQ. Now, it has been indicated at various points in [2291] the record that upon separation from the NEES System the combined gas companies would lose advantages with respect to mass purchases. Do you recall that line of testimony? A. Yes.

XQ. Can you describe the particular areas in which this

would occur? A. Oh, I think that the area that was mentioned last week in the purchase of pipe would be an area. I can think of an incident that occurred in the winter that would be almost impossible to measure in value of dollars insofar as the gas companies are concerned, but certainly had we not had the purchasing department of the New England Electric System available to us, it is conceivable that some of our customers would have gone without gas.

XQ. Why was that? A. Well, that was because of the emergency conditions that prevailed, that started with the railroad strikes that prevented shipment of fuels into New England. It was accelerated by a storm that held trucks and cars off the highway for two days, making it impossible to move fuel by trucks and it was further accelerated by the cold December and the longest cold spell that New England has known in 40 years when we had 16 days of a cold spell that required us to use up our supplies of propane and gas and oil to the [2292] point where we were really in desperate need. I am sure that because of the NEES—I know because of the NEES purchasing department contacts with the railroads, with shippers, due to their present purchases of coal and oil that they were able to get the railroads to trace these, ask for and get us deliveries of propane by tank cars over the railroads and get trucks on the road that we couldn't possibly have obtained without their help and actually put us in a position where we could keep on doing business.

XQ. Why do you feel that the eight gas companies, the eight combined gas companies could not independently have obtained the same service? A. Because I don't think our relations with the railroad and truckers, due to the amount of fuel we could purchase in the year, would justify our having the close relationship with these shippers that NEES has with their tremendous power of purchasing fuels as they have. I am convinced of that.

XQ. With respect to the purchases of oil, the total year's purchases, how much is that required for the gas companies and how much required for the electric company? A. I don't have the vaguest notion how much we require for the electric company.

XQ. Do you have the vaguest notion how much they purchased during the year? [2293] A. No, sir.

XQ. Do you know how much your gas company required during the year? A. I don't have the figure here.

XQ. Oil and propane. I meant both of them. Absent any emergencies, do you see any advantages you would get by way of purchasing being on the NEES System than you would if you were separate and on a combined basis? A. You can except these emergencies if you want to, but as far as I am concerned these emergencies are one of the important areas that we call on NEES for help and that is the situation we went through this winter, which was something I wouldn't want to go through without the help of NEES.

XQ. Do you get any price advantages with regard to propane or oil by virtue of being a part of the NEES System? A. I would think that we wouldn't get any real price advantages as far as propane is concerned because the gas companies are buying all of the propane that is purchased in the system.

XQ. How about oil? A. Well, I would expect we would get some advantage.

XQ. But you don't know whether this is right or not? A. I do not.

XQ. How about price advantage on pipe? A. Oh, I would expect that we would get a real price [2294] advantage on price because of the amount of pipe and conduit that is bought by the electric system from the same vendors from whom we purchase.

XQ. Do you know whether or not any of the non-affiliated

gas companies in Massachusetts have an equal experience to that you related? A. Yes.

XQ. Do you know whether they had any trouble getting the required supplies? A. Yes, sir, some of them had to pay ten dollars thousand for excess gas over their authorized quantity.

XQ. You mean the gas companies of NEES had trouble during the winter months? A. That is right.

XQ. And some of the others did? A. Yes.

XQ. What do you mean by authorized quantity? A. The amount that was in excess of their normal demand.

XQ. Do the NEES gas companies have any air conditioning load? A. We have some air conditioning load. The New England market up to this point has not been very active insofar as air conditioning and most of it is in the commercial area, not in the residential.

XQ. Could you estimate approximately what air conditioning [2295] load you had? A. If I had to estimate, I would guess not over a hundred air conditioning installations in the division.

XQ. When you say air conditioning, is that a centralized location or is the air conditioning a plant to air condition the whole house? A. Yes. Unfortunately the gas air conditioning has to be a central air conditioning unit that provides air conditioning for the whole house.

XQ. What efforts have been made by the NEES gas companies to initiate or expand their air conditioning load? A. Last year we put in a summer air conditioning rate, and we feel it is a—in fact we know it is a saving factor and we will develop some air conditioning load and we expect to develop a substantial amount henceforth.

XQ. Can you briefly describe the competitive situation in the New England area as between electric air conditioning, air conditioning by electricity and by gas? A. Unfortunately for the gas companies, there isn't much competition

as between the electric companies and the gas companies. At the present time the original installation of a gas air conditioning unit, and I am talking now of a central unit, is substantially in excess of the cost of a comparable electric unit. On the other hand, we feel that with our new promotional rate of eighty cents for air conditioning, the [2296] cost of operation of a gas air conditioning unit will be less than with electric.

XQ. Have you made any extra effort to encourage your salesmen to press for the sale of air conditioning units?

A. Oh, yes, sir. I think, as I previously described, our salesmen work on a salary and a bonus basis; our commercial salesmen work on a basis of a base salary and bonus for added revenue and the more revenue they add the more money they earn. Air conditioning is a good source of added revenue for them and they are working to develop air conditioning to the extent that they can.

XQ. Are you familiar with a centralization air conditioning project located in downtown Hartford and undertaken by Hartford Gas Company? A. I have heard of it.

Mr. Nowlin: May we go off the record a moment?

Hearing Examiner: Yes.

(Discussion off the record.)

Hearing Examiner: Back on the record.

By Mr. Nowlin:

XQ. Page 851, Mr. Dalbeck, of the transcript you mention a new gas refrigerator recently developed by RCA Whirlpool and another one by Norge. A. Yes.

XQ. Are any of these refrigerators on display in the [2297] NEES stores? A. We are selling them.

XQ. How much was spent in 1958 and 1959 and 1960 by the NEES gas companies for advertising on a per customer basis? A. The figure that I have for advertising expense for domestic customers includes all advertising, including advertising charged to new business expense and adver-

tising charged against merchandise and jobbing revenue. The amount for the gas division, including Lynn, in 1960 was \$1.48. The amount in 1959, excluding Lynn, was \$1.35.

XQ. At that point, do you know how much the 1960 is attributable to Lynn alone? A. Well, actually if we eliminated Lynn advertising expense per customer, which was the lowest in the gas division, of \$1.02 per customer, the average of \$1.48 would increase and I don't know what the figure would be. In 1958 the advertising expense per domestic customer and excluding Lynn was \$1.08.

XQ. Are any of these advertising expenditures, Mr. Dalbeck, identifiable as such in the company's return to the Department of Public Utilities of Massachusetts? A. Yes.

XQ. Do you know on what accounts? A. Accounts 664, advertising, and 560, merchandise and jobbing revenue. You have to go to two places to find [2298] out.

Excuse me, I might add that those accounts that were in effect in 1960 and prior years, there has been a new classification of accounts issued effective January 1, 1961 and I am not familiar with the numbers on those accounts.

XQ. If you look, Mr. Dalbeck, at these two accounts, number 664 and 560, for 1958, could we arrive at the per customer figure of \$1.28 which you just gave us? A. If you have the reports to the DPU.

XQ. Do you know how much was spent for advertising on a per customer basis by the five NEES electric companies which operate jointly with the gas companies? A. No, sir.

XQ. How do you determine what expenditures will be made for advertising in any given year? A. Well, the first thing we do is to sit down with our agency and the account executive of that agency. He contacts each one of the vice presidents and presidents and managers of the several division companies who, with the merchandising manager, works out what they think their advertising budget should be for the ensuing year. Those are then reviewed with the

promotional sales manager, ultimately with myself, and on the basis of our judgment as to what should be done in the companies in the following year, then we set our advertising budget accordingly.

[2299] XQ. And that advertising budget is submitted to the Boston office? A. No, sir.

XQ. Do you have the sole discretion as to the amount of expenditures that will be made for advertising? A. I have always assumed I had, yes, sir. I never discussed the advertising budget with anybody in Boston.

XQ. Has anybody in Boston ever discussed it with you? A. No, sir.

[2300] By Mr. Nowlin:

XQ. Is this advertising budget a part of your operating budget, Mr. Dalbeck? A. Well, the amount of the advertising budget ultimately finds its way into the operating budget, so in that respect it becomes a part of the operating budget, but it is prepared and determined independently and prior to the preparation of the operating budget.

XQ. Now, your operating budget is subject to the approval of the officials in Boston, isn't it? A. Oh, I guess it is approved by them, but actually we prepare our own operating budget and send it into the Boston office, and it is accepted.

XQ. But if they thought you were spending too much money, they would probably object to it? A. They probably would, but they haven't.

XQ. Are any of the advertising and sales promotional activities conducted on a joint basis for the electric and gas companies? A. No, sir.

XQ. Do the NEES companies insert any advertising material into the envelopes containing customer bills? A. Where customer bills are mailed in envelopes we do have bill enclosures advertising special campaigns during the year, yes.

[2301] XQ. Well, now, in the case of the joint bill, gas and electric, do you include advertising material for the electric and the gas? A. Well, there are no joint bills.

XQ. Don't you have any joint billing in the NEES System of electric and gas services? A. No, because they are separate companies. Each company is a separate company, and each company sends out its own bill.

XQ. I was operating under the erroneous illusion that in a few instances you did have joint billing, but I guess I am wrong.

XQ. Isn't there testimony in the record, Mr. Dalbeck, to the effect that in some instances a customer receives only one bill for electric and gas service? A. The only place where a customer received one bill for electric and gas accounts was in the Lynn Gas and Electric Company prior to January 1, 1960. It was a combination company.

XQ. Is there any advertising done by the use of cards on trucks owned by the NEES companies? A. There is advertising done on the gas company trucks of the NEES companies, yes.

XQ. Whose advertising is that for? A. The gas company.

XQ. You mean there is no electric advertising carried on [2302] the gas company trucks? A. No, sir, there is not.

XQ. How about jointly operated trucks? A. There are no jointly operated trucks.

XQ. On page 849 you testified that the house heating saturation for the NEES gas companies combined was 17.3 percent; do you recall that? A. Yes, I think so.

XQ. As of what date is this figure? A. I think that was the year 1959.

XQ. Now, could you give it to us for 1958 and 1960? A. Well, the figures that I have here will vary somewhat from the figures that I quoted on page 849 because the 17.3 percent did not include Lynn. The figures that are appli-

cable to 1958, including Lynn, was 14 percent. In 1959 that 17.3 figure, including Lynn, drops to 16.5 percent; and for 1960 the figure is 18.6 percent.

XQ. Now, could you give us the same percentages for the eight NEES companies separately? A. Yes, sir. For all years?

XQ. Yes, please. A. Mystic Valley Gas Company, 1958 of 11.8 percent; 1959 14 percent; 1960 15.9 percent.

Lynn, 1958 10.3 percent; 1959 12.5 percent; 1960 14.1 percent.

[2303] North Shore, 10.5 percent for 1958. 1959 12.6 percent. For 1960 14.7 percent.

Lawrence, 1958 25.6 percent; 1959 29.3 percent; 1960 32.4 percent.

Central, 23.6 percent for 1958; 27 percent in 1959; 29.3 percent in 1960.

Wachusett, 10.5 percent in 1958; 12.5 percent in 1959; 14.6 percent in 1960.

Northampton, 16.8 percent in 1958; 20.8 percent in 1959; and 22.6 percent in 1960.

Norwood, 18.4 percent in 1958; 21.8 percent in 1959; and 25.8 percent in 1960.

XQ. Are those year end figures? A. Yes, those are based on customers at the year end.

XQ. Do you know what the house heating saturation figures are for each of the non-affiliated Massachusetts gas companies shown on Respondent's Exhibit 90? A. No, sir. That is almost impossible to determine on a comparative basis.

XQ. Why is it impossible to compare the saturation point of the NEES companies with the other Massachusetts companies reflected on Exhibit 90? A. Because we all don't measure house heating customers or consider house heating customers on the same basis. Insofar as the NEES Gas Division companies are concerned, we classify a [2304]

house heating customer as one who is on the L rate, or so-called house heating rate, and who uses gas solely for heating his home. Some companies, not only in New England but in other areas, consider as a heating customer, which is interpreted as a house heating customer, all customers who use gas for heating whether it be their sole use of heat or whether it be a kitchen range burner or a room gas heater.

XQ. Doesn't the system of accounts of the Department of Public Utilities in Massachusetts require a report on the same basis? A. The system of accounts doesn't require a breakdown of house heating customers. I think I can amplify that by quoting from the annual report of the New England Gas and Electric System in which they speak of their heating customers, and I will just quote: They say: "At the end of 1960 the system had 82,600 domestic heating customers, an increase of 4300 over 1959. This represented a 51 percent saturation of domestic customers, twenty percent of whom utilized central heating plants and thirty-one percent used one form or another of individual room heaters." And this is the closest that I have been able to come to making a reasonable comparison with some of the other companies where they say that twenty percent of their customers are central heating users, and I would say that generally would compare with our figures.

XQ. Now, what is the saturation of the NEES Gas Company for [2305] gas water heaters? A. I have no figures available on that, but I would say the saturation would be extremely high.

XQ. Could you give us a rough estimate? A. I would say between sixty and seventy-five percent.

XQ. Do you know what the comparable saturation figures are for the non-affiliated companies shown on Exhibit 90? A. No, sir.

XQ. There wouldn't be any differential in the reporting

of gas water heaters by the non-affiliates than with that used by the NEES company, would there? A. There is no way that you can determine from any records that I have ever seen as to saturation of water heating. There have been surveys that have been made at various times, but these are one shot affairs that aren't of a continuing nature.

XQ. Do you know what the saturation is for gas ranges in the NEES gas companies? A. Here again this would have to be a pretty wide estimate, but I would guess between 80 and 90 percent.

XQ. What is the saturation of electric ranges for the electric companies conducting joint operations with the gas companies? A. I don't know. I have tried to find out, but I don't know.

[2306] Mr. Nowlin: Off the record.

(Discussion off the record)

By Mr. Nowlin:

XQ. On the record.

Do you know generally, Mr. Dalbeck, whether the saturation for electric ranges for these electric companies is high or low or medium compared with the gas?

Mr. Dunn: Would you read the question?

(Question read.)

By Mr. Nowlin:

XQ. I will restate the question.

Do you know in general, Mr. Dalbeck, whether the saturation for the electric ranges for the electric companies conducting joint operations with the gas companies is higher or lower than that for the gas? A. I don't know.

XQ. Do you know the number of customers in the area served by the gas companies that have electric ranges? A. No, sir.

Mr. Nowlin: May we have a five-minute recess?

Hearing Examiner: We will have a short recess.

(Whereupon, a short recess was taken.)

By Mr. Nowlin:

XQ. Mr. Dalbeck, could you obtain and supply for the record computations similar to the rates of return that are [2307] reflected on Exhibit No. 114 for the following companies: The Berkshire Gas Company, Brockton-Taunton Gas Company, Fall River Gas Company, Haverhill Gas Company, Lowell Gas Company, Springfield Gas Company, and Worcester Gas Light Company? A. I am sure we can.

XQ. That is for 1958 and 1959. A. Yes, sir.

Mr. Quarles: We will undertake to provide that as an exhibit, and I would suggest that a number be reserved for it, the next number in order.

Hearing Examiner: Very well, let Respondent's Exhibit 117 be reserved for that exhibit, and when it is received and filed with the Docket Section it will become part of this record.

(Respondent's Exhibit No. 117 was reserved.)

By Mr. Nowlin:

XQ. Since your last testimony, Mr. Dalbeck, has there been any change in the emergency contract arrangements between Mystic and Algonquin? A. No, sir.

XQ. Now, in connection with Tennessee's rate increase of April 5, 1960, did the NEES gas companies receive an off-setting increase? [2308] A. Yes, sir.

XQ. Page 813 of the transcript you refer to studies of load growth for a twenty-year period. What twenty-year period does this study cover? A. Those twenty year periods cover the time from the date that the load growth survey is initiated for the ensuing twenty years.

XQ. Is that prepared each year? A. No, sir. It is prepared at one time, but is reviewed periodically to see that the conditions haven't changed sufficiently to change the content of the survey.

XQ. Now, when was that survey made? A. This survey has been made for most of our companies within the last two years and is continuing. It has not been completed for all companies in all areas.

XQ. Do you know whether or not that survey coincides with the five-year survey that you make each year for the Federal Power Commission? A. No. As a matter of fact, this survey is predicated on this five-year survey that we make for Tennessee, and it is there for purposes of estimating load growth and for determining future construction in particular areas.

XQ. Could you supply for the record a copy of that survey and also a survey of the five-year projection for the Federal Power Commission?

[2309] Mr. Quarles: Mr. Examiner, we have several times requested that these requests for additional information be addressed to counsel, and have thought that it would be helpful if they could be discussed with us. We want to be just as helpful as we can in providing the material, but at this late date in the proceedings being asked for more and more material begins to be a little troublesome. I am not at all sure what is involved in this, and it would be much easier for us if we could know what it is in addition that the staff wants and work with them on a specific statement of the request and the form in which it can be supplied.

The Witness: As a matter of fact, these twenty-year surveys are not reduced to writing or report form. These are work papers that the engineers use in determining what their construction will be in ensuing years, so that they are not in the form of reports that are directed to me, for instance.

By Mr. Nowlin:

XQ. Well, now, aren't the reports that you submit for

the Federal Power Commission in written form? A. Yes, those are.

Mr. Nowlin: Well, I will inquire of counsel if he will supply us a copy for the record of these five-year estimates submitted to the pipeline suppliers for the years 1958, 1959 and 1960.

Mr. Quarles: Yes, we will be glad to supply them.

[2310] By Mr. Nowlin:

XQ. Now, at page 830 of the transcript you referred to competition between the electric and gas to equip a large housing project at Everett. Do you recall your testimony? A. Yes, sir.

XQ. In this connection you state that the electric staff assisted by NEPSCO held a meeting with the housing authority, and that the gas company heard of this, and they sent their own man. A. Yes, sir.

XQ. Now, why was the electric company in on this ahead of the gas? A. They weren't. We were aware of it, and we were working against the electric company on the project, and my reference was to a semi-final meeting of the housing authority, at which time they were to decide what was going in. We were under the impression that the job was going gas until we found that through ulterior means that the electric was in there on top of us when we thought the job was sold, and then we went back to work on it, but we were both in there working against each other on this particular housing project.

XQ. Reading your testimony certainly leads one to believe that the electric people in the service company were in there first. I direct your attention to this part of the statement: "The electric company spent considerable time and staff efforts [2311] in convincing this housing authority that an all-electric project was the thing to have, including electrically heated apartments. A meeting was held between the housing authority and several of the personnel

in the electric company power sales staff, and they were assisted by NEPSCO, the electric sales staff. Learning this, the gas company formulated a sales approach to counteract the electric company's sales efforts." Wouldn't that indicate to you the electric company was in there ahead of anybody else? A. Let me assure you from day to day we were in there against the electric company for that job since its inception.

XQ. Did the service company assist the gas companies in that project? A. The service company, the electric sales department, has nothing to do with the gas division. We perform our own promotional and sales activities from the gas division office.

XQ. Well, now, are there any instances of this kind in which the electric won over the gas? A. Yes, sir.

XQ. Do you know on the average which one has come out ahead? A. We have.

XQ. Pages 1585 and 1586 of the transcript you estimated that— A. 1585?

[2312] XQ. 1585 to 1586. —you estimated that the rate of return on invested capital for the combined gas companies would decrease from 6.25 percent to 5 percent because of the loss of peak shaving gas, is that correct? A. I did say apparently five percent. It should have been 5.5, as a matter of fact.

XQ. I was going to ask you what was your actual rate of return for the gas company for 1960? A. On net plant and working capital, 5.56.

XQ. What was the cost of purchased gas per MCF for 1960 and in 1959? A. On a division basis, I haven't got that figure, sir.

XQ. What do you mean by division basis, Mr. Dalbeck? A. For the Gas Division companies as a whole, or as a matter of fact, for any individual company. I just don't have it here.

XQ. Is the 5.66 rate of return which you have just mentioned comparable to the 6.4 percent in 1959 and the 6.6 percent in 1958 reflected on Exhibit 114? A. May I have that question again, please?

(Question read)

A. Yes, sir.

XQ. Now, at page 861 of the transcript you stated that MCF sales in New England increased 132 percent from 1952 to 1959. Do you find that? [2313] A. Yes, sir.

XQ. Doesn't this computation include New England gas companies which in that period were not on a straight natural gas basis? A. Yes.

XQ. Assuming that the non-straight natural gas companies were excluded from the computation, wouldn't that figure of 132 percent be larger? A. Not necessarily because some of the gas companies that weren't on natural gas were increasing their loads correspondingly.

XQ. Well, isn't it true, Mr. Dalbeck, that companies like Boston Gas, which sells lower b.t.u. gas than straight natural gas would not have the same growth? A. No, that doesn't follow at all because the Boston Gas Company was promoting and aggressively selling gas, just as all other gas companies in New England were, whether it was natural gas or manufactured gas, their rates were on a comparable basis, and they were in the same position to sell gas as were the other companies that did have straight natural gas. As a matter of fact, during this period they did have customers who were on straight natural gas and other customers were buying a mixed gas.

XQ. Well, is it feasible for a company serving five or six hundred b.t.u. gas to sell gas for house heating? A. If their rates were on the level that would allow them [2314] to compete, and Boston Gas rates were.

XQ. Do you have any instances in the NEES system before the advent of natural gas where you had house heating

load from manufactured gas? A. We had some house heating load, yes.

XQ. That is rather unusual, though, isn't it? A. Well, let me say it was substantially less than it is today, but there was house heating load.

XQ. Well, isn't it a fact, Mr. Dalbeck, that the house heating in New England got its primary emphasis by the initiation of natural gas service? A. That was true in the majority of gas companies. It was not true in all of them.

XQ. Do you know whether that was true in Boston Gas? A. I know that Boston Gas has been aggressively selling house heating for many, many years.

XQ. Do you know whether they are having comparable results with those selling straight natural gas? A. Considering the area that Boston Gas Company operates in, I would say that they are having excellent results from selling mixed gas. Let's understand that they are not selling a five-sixty b.t.u. gas. They are selling an 800 b.t.u. gas, which for all practical purposes is the equivalent of natural gas, particularly when they convert their rates to a therm basis, which puts it on an exactly comparable basis with our own [2315] rates under natural gas.

Now, Boston Gas in its outlying area, where they are getting growth, are doing a tremendous job of selling house heating. Where Boston Gas looks poor in their overall sales per customer is the fact that the great city of Boston is not good gas territory because there is no building going on there, and they are losing population.

XQ. Well, now, how do you account for the growth in the Norwood area as compared with the other NEES companies? A. I think that is apparent when you look at the increase in population in the town of Norwood as compared with any of the other NEES companies, or as a matter of fact, most of the other cities and towns in Massachusetts. Norwood experienced a 49 or 50 percent increase in popu-

lation from 1960 over 1950. That population explosion in Norwood meant a tremendous amount of new home building, and we as aggressively promoted gas in Norwood as we have in all of our territory, but we did have the advantage of having a new home market to sell in, which we didn't have comparatively in our other gas companies.

XQ. Are there no other comparable areas in the State of Massachusetts to that of Norwood? A. There are communities in Massachusetts that are comparable with Norwood, but they would be a part of a larger company.

XQ. Are there no communities in the NEES areas comparable [2316] to Norwood? A. Well, the one that I can think of at the moment that I would expect would be comparable to Norwood would be the town of Burlington, which had the same kind of a population explosion in that community.

XQ. What company serves Burlington? A. Mystic Valley Gas Company.

XQ. Have the gas sales increased as rapidly in Burlington as they have in Norwood? A. Yes, sir. I might say for the record that Norwood has the highest saturation—I beg your pardon—Burlington has the highest saturation of house heating of any city or town that we serve, and their saturation on house heating is about 42 percent of the gas customers use gas for heating. This is Burlington.

Mr. Nowlin: Mr. Examiner, I suggest we take a recess for a few moments. I think we are nearing the end, and I would like to check.

Hearing Examiner: All right. We will suspend here until you want to resume.

(Whereupon, a short recess was taken.)

Mr. Nowlin: Mr. Examiner, I would like to request of counsel for the respondents to stipulate with me that in the course of the staff's preparation or counsel for respondent's preparation of any briefs or proposed findings in this

proceeding [2317] that we may refer to and use portions of the material reflected in the Commission's Docket No. 72-8, those particular portions being the annual returns of the eight gas subsidiaries of NEES to the Department of Public Utilities of the State of Massachusetts, it being my idea that if we were to use some portions of these reports they could be specified in the proposed findings or brief, and in the event of an appellate record we would only have to certify those particular sheets that were used rather than to include the entire docket.

Mr. Quarles: That is satisfactory to us, and we will so stipulate.

Hearing Examiner: Let that stipulation be entered of record and followed.

Mr. Nowlin: Now, Mr. Examiner, I should also like to request a similar stipulation from counsel that both of us may use the U-5-S annual supplements filed for the New England Electric System with this Commission, again with a view that if any portions of those documents are used we could extract the particular portions that might be pertinent, and that the stipulation would extend for the U-5-S for 1958, 1959 and 1960.

Mr. Quarles: That is also agreeable, and we will stipulate to that effect.

Hearing Examiner: Let that stipulation be entered of record and followed.

Mr. Nowlin: Mr. Examiner, I think that is all we have [2318] at the present time.

Hearing Examiner: Off the record.

(Discussion off the record)

Hearing Examiner: On the record.

Mr. Quarles: In view of the time that has elapsed in the course of these hearings and the length and complexity of the record, we would like a reasonably brief period to review the record and determine whether it is necessary to

add anything by way of redirect examination or to ask Mr. Gishman any questions or otherwise to supplement the record before it is closed. I have discussed this with Mr. Nowlin, and we have agreed, if satisfactory to you, to May 17th as a proper time for what we would hope to be a final clean-up, at which we could dispose of any remaining matters, could determine post-hearing procedures, and could close the record.

Hearing Examiner: Gentlemen, I think that request is reasonable, and the hearing will now stand in recess until 10:00 a.m., May 17, 1961.

(Whereupon, at 4:50 o'clock, p.m., the hearing recessed until 10:00 o'clock, a.m., May 17, 1961.)

[2320]

PROCEEDINGS

Hearing Examiner: The hearing in this proceeding will now be resumed.

Mr. Quarles: Mr. Hearing Examiner, it seems appropriate at the outset of the hearing today to introduce into the record certain material requested by the staff during the course of their cross examination of the respondent's witnesses on April 24, 1961. This material was submitted last week to the staff of the Commission for their examination.

The first item is in response to the staff's request at page 2207 of the transcript for investments by NEES in its eight Massachusetts gas subsidiaries during the past five years. In response to that request we offer as an exhibit a sheet entitled "New England Electric System-Investments in Eight Massachusetts Gas Subsidiaries, during Five Year Period, 1956-1960."

I suggest that this sheet be admitted as Respondent's Exhibit 118.

Mr. Nowlin: No objection.

Hearing Examiner: The exhibit is so admitted in evidence.

(Respondent's Exhibit No. 118 was received in evidence.)

Mr. Quarles: The next item is in response to the staff's request at page 2236 of the transcript for the rate of [2321] return of the five electric companies in the NEES System, which conduct joint operations with the gas companies in the System.

In response to this request, we offer as an exhibit a single sheet entitled "New England Electric System-Five Electric Companies Rate of Return Data." The information shown thereon is for the years 1958 and 1959.

I offer this sheet as Respondent's Exhibit 119.

Mr. Nowlin: No objection.

Hearing Examiner: The exhibit is admitted as Respondent's Exhibit 119.

(Respondent's Exhibit No. 119 was received in evidence.)

Mr. Quarles: The next item is pursuant to the request of the staff at page 2306 and 2307 of the transcript for rates of return of certain Massachusetts gas companies non-affiliated with the New England Electric System.

In response to this request we offer a single sheet entitled "Non-Affiliated Massachusetts Gas Companies' Rate of Return Data." The information shown on this sheet is again for 1958 and 1959.

At page 2307 of the transcript as exhibit number was reserved for this information, namely, Respondent's Exhibit 117. Accordingly, I offer this sheet as Respondent's Exhibit 117.

Hearing Examiner: This present exhibit is admitted as [2322] Respondent's Exhibit No. 117.

(Respondent's Exhibit No. 117 was admitted in evidence.)

Mr. Quarles: Pursuant to a request of the Commission's staff at page 2308 and 2309 of the transcript for the five year estimates submitted by the gas companies to their pipeline suppliers in the years 1958, 1959 and 1960, we offer an exhibit consisting of an explanatory statement and 33 pages of schedules. The first eleven pages of the schedules are the estimates submitted by the eight gas companies of the New England Electric System to their pipeline suppliers in 1958. The second eleven pages are the estimates supplied in 1959 and the third eleven pages are the estimates supplied in 1960. The reason that there are eleven sheets for each year is that three of the eight gas companies have two divisions, and in those three companies separate estimates of gas requirements for each division are prepared and submitted.

I offer this exhibit as Respondent's Exhibit 120.

Hearing Examiner: I hear no objection, and the exhibit is admitted in evidence as Respondent's Exhibit 120.

(Respondent's Exhibit No. 120 was received in evidence.)

Mr. Quarles: In addition, we have three sheets which give the 1960 population figures for each of the towns served by the seven non-affiliated gas companies in Massachusetts which [2323] were considered by the staff of the Commission in connection with their Exhibit No. 4 to be comparable to the NEES gas companies. This is a compilation of the population figures taken from the 1960 census, and at the end of it there is a note giving the population growth between the 1950 census and the 1960 census.

Since these population figures for the non-affiliated companies correspond with similar figures for the NEES gas companies contained in Exhibit 113, I offer these three sheets as Respondent's Exhibit 113-A.

Hearing Examiner: Let the exhibit come in as Respondent's Exhibit 113-A.

(Respondent's Exhibit No. 113-A was admitted in evidence.)

Mr. Quarles: Finally, in our examination of the transcript of the cross examination held on April 5, 6, 7, 10, and 24, 1961, we found some errors which seem to be sufficiently material to warrant correction of the record. We have prepared a memorandum of these proposed corrections and have submitted it to counsel for the Commission and we understand that he is in agreement. Accordingly, we now move that the record be corrected as set forth in this memorandum, and suggest that the memorandum be received in evidence as Respondent's Exhibit 121.

Mr. Nowlin: No objection.

Hearing Examiner: This memorandum of revisions and [2324] corrections is admitted as Respondent's Exhibit 121, and the record will be corrected in accordance therewith.

Mr. Quarles: Now, I would like to call Mr. Gishman.

Whereupon,

SAMUEL GISHMAN

was called as a witness, having been previously duly sworn, was examined and testified as follows:

Cross Examination (Continued)

By Mr. Quarles:

XQ. Am I correct in understanding that you personally took the basic figures for Division's Exhibit 4-A from the annual returns of the several companies on file with the Massachusetts Department of Utilities in Boston? A. I took these figures in cooperation with Mr. Ware, another member of our staff. We worked on them simultaneous,

and I could not identify particular figures taken off by him or taken off by me.

XQ. But you and he worked together in taking them from the returns? A. That is right.

XQ. Incidentally when was that? A. This was back in April, I think. Can I confer a minute with Mr. Ware?

XQ. Certainly.

Hearing Examiner: Off the record.

[2325] (Discussion off the record)

Hearing Examiner: On the record.

The Witness: My recollection is it was in April 1961, but I can verify that for the record.

Mr. Quarles: It is not necessary to come closer than that.

By Mr. Quarles:

XQ. Were you interested solely in the information shown on this exhibit, or did you examine the returns generally? A. Mr. Ware and I looked at other items in those reports and compiled figures of various types from those reports, but these are the only ones that we have included in these exhibits.

XQ. You did make some other comparison though between the two groups of companies? A. No, we didn't make any comparisons, I wouldn't say. When were up at the DPU, we went through the reports and took various figures of various types of items out of those reports, not at that time having in mind any particular comparisons that we might later want to make. We just wanted to have the information available to us for study.

XQ. And then from the figures that you took that way you later selected this material for the purpose of an exhibit? A. That is correct.

XQ. Now, for what purpose in this case is this exhibit useful?

[2326] Mr. Nowlin: Mr. Examiner, I am going to object

to that. The exhibits speak for themselves, and the purpose that they may be used for in a brief I don't think has relevance to the exhibits at this time.

Mr. Quarles: The thing that I am interested in is exploring the relevance of the exhibit, and I was inquiring of the witness who made the selection of the material as to what it was designed to demonstrate, or why it was relevant and admissible.

Hearing Examiner: What exhibit does this line of examination concern?

Mr. Quarles: Exhibits 3 and 4, which were put in together and were used for comparison purposes, Division's Exhibits 3 and 4.

Hearing Examiner: Well, have you anything further to say, Mr. Nowlin?

Mr. Nowlin: Yes, sir. I think maybe the exhibits are already into evidence, and what purpose this would be used for would be disclosed in a brief if they are used.

Hearing Examiner: Well, I would disagree with you on that. It seems to me that Mr. Quarles has the right to cross examine the witness, and he may want to make some motion to strike these exhibits. I overrule the objection. I think he has a right to cross examine on this material.

Mr. Nowlin: Exception.

[2327] The Witness: The purpose of these exhibits was to try and get some insight as to the results of sales to customers by the NEES gas companies on the one hand and a group of independent Massachusetts gas companies on the other.

By Mr. Quarles:

XQ. Well, now, referring to Division Exhibits 3 and 4, could you tell us the meaning of the term domestic customers as used in 3-A and B and in 4-C and D? A. Domestic customers would be customers other than commercial and industrial and sales to other utilities.

XQ. And would domestic sales mean merely sales to domestic customers? A. That is right.

XQ. Is this a classification that is based on use or on the type of customer, or is it a rate classification? A. Well, it would be a combination of both. The Respondent's Exhibit 58-A sets forth for each of the NEES gas companies tabulations which give the number of customers for each company, and those tabulations are divided up into domestic, commercial and industrial, as I recall. We attempted to follow that same type of classification in getting up those figures.

XQ. Does the classification of accounting in Massachusetts allow differences in practice in what is reported under these several categories? [2328] A. We took the figures off the Department of Public Utilities reports, as they were labeled in those reports. Those reports, as I recall, referred to domestic customers, industrial customers, and other types of customers, and we attempted to follow just those lines.

For example, on Division's Exhibit 4-A, which is total sales—well, since we are talking about domestic customers, let me amend that statement. Let me start all over again. Division's Exhibit 4-C, which shows domestic gas sales revenues and customers for nine natural gas companies of Massachusetts, the figures for domestic gas sales and domestic operating revenues were taken from the DPU report for 1958 for each of those companies as shown on page 302, line 47, of those DPU reports.

XQ. So that you accepted the labels as they appeared there without undertaking to determine whether those terms meant the same thing to different companies? A. We took those labels as they appear there. I might add that as I recollect we compared some of the domestic customer figures appearing in Respondent's Exhibit 59-A, for the year 1958, with information shown in the DPU reports

for those same companies to see whether the figures were approximately the same or matched. I believe we found they did match.

XQ. I gather that you did not make a corresponding check with respect to the other Massachusetts companies?

A. Well, if you are speaking of number of domestic [2329] customers with respect to the independent companies, Mr. Quarles, the number of customers shown for every one of these domestic companies on our exhibits were taken off Respondent's Exhibit 90, where you mention those independent gas companies and you give the number of their customers. Now, I don't recall whether you give the number of domestic customers.

XQ. I was more concerned with the MCF figures than with the number of customers in this particular inquiry.

Well, do you know whether the non-affiliated companies listed on 4-C and 4-D, other than Boston and Buzzards Bay, report domestic sales on the same basis as the NEES gas companies do? A. I do not know, no, sir. I assume that they did, but I do not know what differences, if any, there are.

XQ. So that you would not know whether the seven non-affiliated companies to which we have been referring followed the practice of the seven NEES companies on reporting as domestic sales only sales made for domestic use?

A. I don't know those details, no, sir.

XQ. I think you referred a moment ago to the fact that the figures for 1958 appearing in Column B of Division's Exhibit 4-C were taken from line 47 on page 302. Would you look particularly, for example, at the figure for the Haverhill Gas Company? A. Yes, sir.

XQ. Is it not true that the Haverhill report shows on line [2330] 47 for domestic amount that year only 237,282, and that under space heating they show 1,120,470, and that the figure of 1,357,600, which you show for Haverhill is the

sum of those two? A. I believe that would be the sum of those two.

XQ. So that in that case the figure shown for domestic is a combination of the figures reported for domestic and for space heating? A. Could we go off the record a minute?

Hearing Examiner: Off the record.

(Discussion off the record)

The Witness: On the record.

I have here, Mr. Quarles, a worksheet which corresponds to that figure of 1,357,600 MCF shown on Division's Exhibit 4-C, and what you say is perfectly correct. Our work sheets show that domestic sales that were reported to the DPU as 237,200 MCF and there was a separate entry there in that report for space heating which we added to the domestic figure.

XQ. Does not Haverhill's space heating include commercial and industrial use? A. Well, I couldn't tell from the DPU report whether it does or not.

XQ. Did you examine their statement of schedule in the back of their report which shows this? A. A schedule which explains space heating?

[2331] XQ. Yes, sir. A. I don't recall having seen that, no, sir.

XQ. Well, in any event, does it not appear that Haverhill's domestic sales as we have them here do include sales for industrial and commercial use? A. In respect of space heating you mean?

XQ. Yes. A. I would assume that if they sell space heating gas for commercial and industrial use that that is included in this figure of 1,120,000 MCF for space heating.

XQ. Well, now, in the light of that, is it useful to compare the NEES domestic sales and revenues as reported with these composite figures of the other companies that include not only domestic sales, but sales for other uses as well?

A. Well, now, I don't know at this moment from my memory, Mr. Quarles, whether or not the space heating sales shown—strike that.

I will answer that question this way: If the NEES gas companies' space heating sales include only space heating to domestic customers, then I will agree that in comparing NEES' space heating sales with the space heating sales of Haverhill that they are to some extent not comparable. To what extent I do not know.

XQ. We were talking not about NEES' space heating, but about these NEES domestic sales, and I was inquiring as to a [2332] comparison of the NEES domestic sales, which are limited to domestic customers, with what is shown on this Exhibit 4-C as domestic gas sales of the other companies, but includes obviously space heating that is not domestic. A. To the extent that there is that difference I would say that the comparability would not be on all fours.

XQ. Thank you.

Turning now to another matter, why did you exclude the Boston Gas Company from your computations in these exhibits? A. We excluded Boston Gas Company for the reason that it was selling mixed gas to a greater or lesser degree from 1952 or 1953 when natural gas came in, was selling mixed gas up to, as we understand it, 1960. The btu content, as I recall, kept increasing from year to year during those intervening years, but that they were on a mixed gas basis, and for that reason we thought that it was probably not comparable with these other companies that were on a straight natural gas basis.

XQ. Do you happen to know what the btu content was in 1958 for your comparison here? A. I think I can get that figure. What year were you inquiring about, Mr. Quarles?

XQ. 1958. A. In 1958, according to my figures here, the btu content of the mixed gas was 800 btu.

XQ. And did you investigate as to the extent to which they [2333] had adjusted their rates and billing procedures to put customers in the same position as if they were being furnished 100 percent natural gas? A. No, sir.

XQ. Did you examine any other factors having a bearing on the sales opportunities and potential of the Boston Gas Company? A. No, sir, we had no other information at our disposal.

XQ. And so can I fairly assume that it was excluded because of the uncertainty as to the relationship of the gas they were selling or the comparability of the gas they were selling to natural gas? A. There was that uncertainty, that is right.

XQ. That was the only reason for excluding? A. Yes, sir.

XQ. Well, now, would you care to express an opinion as to the extent to which variations in the figures between Exhibits 3 and 4 result in differences in the territory served with respect to such factors as population growth, new housing, number, type and size of industrial and commercial users and similar factors? A. Not being a gas expert I don't think I could express an opinion that would be worth much.

XQ. Are you enough of a gas expert to have an opinion as to whether those factors are important in judging the performance [2334] of a company? A. As a layman I would say they probably have some bearing.

XQ. Would you think that comparisons that took no account of these factors would be particularly significant? A. I think comparisons which compare groups of companies like these are, you would have eight NEES companies and we have seven of the independent gas companies, would have more value for comparative purposes than

would two individual companies. I believe that differences would tend to be ironed out in looking at these two groups of companies as groups.

XQ. Before reaching any conclusion on it, would it not be necessary to examine the other factors? A. I would say it would be desirable to do so, yes, sir.

XQ. Looking now at Exhibit 4, how would you account for the wide range in MCF per customer among the companies? First looking at 4-A relating to total sales, where the range, for example, is from Brockton-Taunton with 48.6 as compared with Lowell at 101.3, and others showing comparable variations. A. The reasons for these variations I am not acquainted with.

XQ. And I suppose the answer would be the same if we look at the comparable figures on Exhibit 4-C, where the range, leaving Boston out for the moment, range runs from 37.0 Brockton up to 70.9 for Haverhill. A. The answer will be the same.

[2335] XQ. Are you aware of the fact that the Brockton-Taunton and the Springfield Gas Light Companies showing quite a wide range are under common management? A. I think that I was aware of that fact. I don't know just how the commonality of the management takes place there.

XQ. Did you make any other comparisons of these two groups of companies on the basis of the data that was included in the reports to the Massachusetts Department of Public Utilities, the insurance cost per customer, for example? A. I don't recall that we made any other direct comparisons of this kind, Mr. Quarles.

XQ. In examining the figures on total sales and revenues shown on Exhibits 3-C and D, and 4-A and B, did you consider the extent to which these figures reflected interruptible sales? A. I am informed that the total gas sales shown on these exhibits do include interruptible sales where reported.

XQ. But you did not attempt to determine to what extent these figures represented interruptible sales? A. Yes, in each one of these cases we do have a figure for interruptible sales, which while they don't show up separately, of course, in these exhibits, do show up on our work papers.

[2336] XQ. And did you inquire as to the presence of very large industrial customers in the respective companies? A. We have the figures for sales to industrial customers.

XQ. Well, now, would the percentage of the total which is represented by interruptible sales at prices only slightly above actual cost be significant in evaluating your company's MCF per customer record? A. Yes, they would.

XQ. But your exhibit does not show it? A. It does not.

Mr. Quarles: I have no further questions, Mr. Gishman.

Hearing Examiner: You may retire from the stand, Mr. Gishman.

(Witness excused.)

[2337] Mr. Quarles: Mr. Examiner, our presentation of evidence is complete and I understand that the staff has nothing further to offer, so apparently the time has come for the closing of the record.

With respect to the post hearing procedures, before stating our position perhaps a brief word of explanation is in order. We have here a case for which there is no controlling precedent or even particularly helpful analogy in the previous decisions of the Commission or the courts.

Of course every case under Section 11(b) of the Holding Company Act has some distinguishing characteristics and each must be decided on its own facts. But the differences are frequently superficial, or mere differences of degree. The factors which distinguish the instant case are fundamental. They go to the very heart of the matter. On its facts I think we can fairly say this case is in a different

category from any the Commission has previously been called upon to consider.

In the first place, the situation of the gas industry in New England is unique. Our area is further away from the source of supply of natural gas, with the result that the cost at city gate is necessarily higher, than anywhere else in the United States—so high in fact that gas heating costs are substantially the same as [2338] oil, with no competitive advantage in price and with no margin to absorb additional costs or losses of economy. As a consequence, losses of a magnitude which elsewhere might easily be absorbed may here mean the difference between life and death.

In the second place, the gas operations within the NEES organization have already developed into an autonomous and independent department, assuring all necessary freedom for promotion and development in unrestricted competition with both oil and electricity, while at the same time enjoying substantial advantages and economies from their connection with the NEES system and its electric operations. This is a case of demonstrated advantages and security as contrasted with the hypothetical risks against which the statute is directed. How this gas division will operate is not a matter of theory and conjecture. It has actually been an effective and successful operation long enough to permit examination of its records and evaluation of the results. It has proved its case.

Third, all of the gas properties involved in this proceeding are located in the single state of Massachusetts, and that State has no public policy against combination of electric and gas utilities but affirmatively favors it. In fact, the Department of Public Utilities is so concerned over the possibility of separation and the resulting loss of [2339] economies and impairment of service that it intervened in these proceedings to oppose any possible divestment order.

The chairman of the Department personally appeared with counsel and testified that the combination of gas and electric utilities is beneficial and in actual practice proves helpful rather than detrimental to supervision and regulation. The public policy of the state in which they operate and the opinion and recommendations of the state agency having direct supervision and regulation of these gas companies cannot be lightly ignored.

These are illustrations of the unique character of this case. Others might be cited. In order to provide the Commission with all of the facts and figures necessary for a proper analysis and decision, because we regard a right decision as of vital importance, we have introduced exhaustive reports, statistics and estimates prepared by the top management of the companies and by the best outside independent experts we could find.

Incidentally, in both direct examination and under much cross examination, both company executives and these outside experts have shown impressive familiarity in depth with the business, its facilities and its requirements; and this was all the more notable in view of the fact that they were not called for cross examination until approximately one year after they had made their studies and [22340] prepared their estimates and set up their pro forma organization.

This presentation has resulted in an admittedly voluminous record. In an effort to reduce the volume of testimony, and particularly to force this case into some of the categories established by previous cases, the staff has understandably, but we think mistakenly, endeavored to exclude much of the evidence offered on behalf of the respondents.

Even while insisting that the first issue to be decided was whether or not the gas companies in their present situation constitute a single integrated public utility system, they

have strenuously objected to evidence showing the substantial economies which are now enjoyed by reason of being operated as a single coordinated system but which would be lost if the several gas companies were separately operated—evidence essential to a determination of that issue under Section 2(a) 29A.

Notwithstanding the fact that there is no way of knowing how the several gas companies would be disposed of under a divestment plan and no basis for assuming combined operation under any new ownership, they have objected to our even showing what the losses in the event of separation and separate operation would be—in our view the very losses which are most significant.

[2341] They have taken the position that any losses resulting from discontinuance of the services of the Service Company should not be taken into account, apparently relying on general language concerning service company economies in a different context and related to entirely different functions, and failing to take into account the fact that in the present case the Service Company is an integral part of the operating organization and if it is eliminated its functions must be otherwise supplied, as contemplated by the pro forma organization which we have set up.

They have objected to the admission of evidence showing losses to the electric companies on the ground that the Commission has held that such losses are not to be taken into account, notwithstanding the fact that the Commission's decision on this point was reversed by the Fifth Circuit Court of Appeals in the most recent case on the point. In support of its position, the staff relied on a brief filed on behalf of the Commission in an appeal of the case to the Supreme Court, apparently assuming that because the Commission wished to argue a different view on appeal it would refuse to recognize the decision, or even to reconsider the question in the light of that decision.

Subsequently the staff recognized the relevance of this evidence, at least for certain purposes, and not only withdrew its objection but requested us to furnish additional omission. [2342] The staff objected to the admission of evidence showing the loss of the benefits of consolidated tax returns, on the ground that shortly after consolidated returns were inaugurated and while they were still in an experimental state the Commission had viewed such benefits as dependent on changing laws and not sufficiently certain to justify reliance on them, notwithstanding the fact that consolidated returns have now become firmly established in our tax structure, are regularly taken into account in rate making and can be relied on with as much certainty as any other factors entering into the computation of benefits and losses, and the Commission now may well reach a different conclusion.

Finally, the staff has been most critical of the order in which our evidence has been presented, stating repeatedly that they would have preferred for us to compare present operation with pro forma operation of the gas companies as a group, instead of making the comparison first on the basis of individual company operation and then on the basis of combined or group operation, using much of the material prepared in the former as the basis for the latter.

Briefly, our position throughout has been that this case is fundamentally different from any previous case before the Commission, that even in areas where superficially there appears to be a similarity and previous [2343] pronouncements of the Commission appear to be applicable the peculiar facts in this case distinguish it, that in view of developments subsequent to some of the Commission's pronouncements on which the staff has relied the Commission can properly be asked to reconsider its position, if and to the extent applicable to the facts of this case, and that we

are entitled to have in the record all evidence necessary to enable the Commission and the court to give fair consideration to our contentions and to decide this case on its merits as a case of first impression.

Now I do not want what I am saying to be interpreted as criticism of the conduct of the staff in this case. I suppose it was only natural for them to endeavor to narrow the issues and to bring the case so far as possible within the limits of the previous decisions of the Commission. At the same time, I think we must recognize that this attitude of the staff and the continuing controversy over the scope of the issues and the admissibility of evidence has necessarily resulted in their being unable to take a completely objective and unprejudiced point of view in formulating a decision on the several issues that this case raises, and so. We cannot it would be fair to ask them to attempt to do so. We cannot accept their interpretation of the significance to this case of certain previous decisions of the Commission. Their participation in formulating the [2344] Commission's decision, however hard they tried to be judicial—and we know they would make a sincere effort—would necessarily reflect the arguments they have made, rather than a neutral judgment as between their views and ours. For this reason we feel that we must object to participation by the interested staff in the preparation of the decision recommended

With reference to the preparation of the decision by the hearing officer, the unfortunate illness of Mr. Ewell, necessitating a change of examining examiners in the midst of the case, presents a serious obstacle to that course. Furthermore, since the issues seen adequately clear and well defined, we do not see that recommended or tentative or other preliminary decisions could serve any particularly useful purpose. We therefore request that the matter go directly to the Commission for its definitive decision on the whole record, assuming that we will have

an opportunity to file proposed findings and conclusions with supporting briefs, and to be heard in oral argument before any decision is formulated.

In other words, we waive any right we may have to call for a recommended, tentative or preliminary decision, whether by the hearing officer or by any other responsible officer of the Commission, or the Commission itself; we object to any assistance or participation by the interested division of the Commission in the preparation of the Commission's [2345] decision; and we request the thirty-day waiting period between the issuance of the Commission's order and the date it is to become effective.

Now in view of the unusual complexity of this case and the size of the record, to say nothing of the imminence of hot weather and the vacation period, both we and the staff will need a reasonably long time for the preparation of proposed findings and conclusions and supporting briefs. We have discussed this with the staff and have agreed to the following schedule, if acceptable to Your Honor and to the Commission; namely, that our brief be filed within 90 days, that the staff's reply brief and other filings be completed within 60 days thereafter, that our reply brief be filed within 30 days after that and when and if there should be any request for any further briefing, that would be within the discretion of the Commission.

We request an opportunity for oral argument before the Commission promptly following the certification of the entire record in this proceeding to the Commission for decision, after the filing of all briefs. We realize that we are asking for more time before the first filing than the rules authorize the Hearing Officer to grant and so we respectfully request that the matter be referred to the Commission for a ruling.

Hearing Examiner: This record, as Mr. Quarles [2346] stated, is voluminous and complex. The pages are in excess

of 2300, and a large number of exhibits have been admitted in evidence. The last exhibit number is Respondent's Exhibit 131, and some of the exhibits carry letter subdivisions A, B, C, D, E and so forth. And I should think that both sides would need the time requested in this stipulation that Mr. Quarles appended to his statement. However, as I am not allowed by Rule 16(e) of the Commission's rules of practice to prescribe a period longer than 30 days after close of the hearing for the first filing to be made, I cannot approve or prescribe the suggested post-hearing procedure. However, I will certify the request for the additional time and the Commission will undoubtedly inform counsel as to its action in that regard.

Are we now ready to close the hearing?

Mr. Nowlin: We are.

Hearing Examiner: Very well, the hearing is now closed, and I will make the certification promptly to the Commission as to what the post-hearing procedure will be.

(Whereupon, at 11:10 o'clock a.m., the hearing was concluded.)

FINDINGS AND OPINION OF THE COMMISSION

INTEGRATION OF HOLDING COMPANY SYSTEM

Non-Retainability of Additional System

Where registered holding company's subsidiaries conducting electric operations constitute single integrated utility system which holding company elects to retain as its principal utility system, and holding company seeks to retain other subsidiaries conducting gas operations and constituting integrated gas utility system, *held*, gas subsidiaries are not retainable as additional system where evidence is not sufficient to justify finding that "loss of substantial economies" within the meaning of Clause A of Section 11(b)(1) of the Public

Utility Holding Company Act would be incurred by gas system if its retention were not permitted.

Retainability of Other Business

Service company controlled by registered holding company, *held*, retainable as reasonably incidental or economically necessary or appropriate to operation of principal electric utility system controlled by holding company.

APPEARANCES:

JOHN R. QUARLES, JAMES VOBENBERG, RICHARD B. DUNN, and WILLIAM D. ANDREWS, for New England Electric System and its subsidiary companies.

DAVID N. BRACKMAN, HERBERT BAER and EDWARD G. SEFERIAN, for the Massachusetts Department of Public Utilities.

SOLOMON FREEDMAN, AARON LEVY, FREDERICK ZAZOVE and WILLIAM R. NOWLIN, for the Division of Corporate Regulation of the Securities and Exchange Commission.

By WHITNEY, *Commissioner*

This is the final phase of proceedings instituted by us under Section 11(b)(1) of the Public Utility Holding Company Act of 1935 ("Act") for the purpose of determining the extent to which the electric, gas, and other operations of the holding-company system of New England Electric System ("NEES"), a registered holding company, may be retained under common control.

We previously found that the electric utility assets of the NEES subsidiaries meet the definition of a single integrated public-utility system,¹ and NEES has elected to retain those assets as its principal system. The chief remaining issue now before us is whether the gas utility

¹ *New England Electric System*, 38 S.E.C. 193 (1958).

subsidiaries of NEES, which concededly constitute a single integrated gas utility system as defined in the Act,² may also be retained as an additional integrated utility system under the standards prescribed in Section 11(b)(1) of the Act.

Hearings were held at which evidence in support of retention was presented by NEES and its subsidiaries ("respondents") and by the Department of Public Utilities of the Commonwealth of Massachusetts ("Massachusetts DPU") and evidence in opposition to retention was adduced by our Division of Corporate Regulation ("Division"). Proposed findings and briefs were filed, and we heard oral argument. Our findings are based on an independent review of the record.

DESCRIPTION OF THE NEES SYSTEM

NEES is a holding company controlling seven electric utility subsidiaries and eight gas utility subsidiaries. It also owns thirty percent of the outstanding stock of Yankee Atomic Electric Company through one of its electric utility subsidiaries and all the common stock of New England Power Service Company ("NEPSCO"), which provides various services to the entire system. The retail electric operations serve 824,000 customers in the states of New Hampshire, Massachusetts, Rhode Island, and Connecticut comprising a franchise area of about 4,600 square miles with a total population of over 2,300,000 people. As of

² Section 2(a)(29)(B) of the Act defines an integrated gas utility system as "... a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation: *Provided*, That gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region."

December 31, 1958, the gross investment in electric plant and equipment was approximately \$600,000,000 and gross revenues from sales of electricity in 1958 were approximately \$143,000,000.³ The NEES gas subsidiaries provide retail service to about 237,000 customers in Massachusetts only, in an area of 660 square miles with a population of approximately 1,032,000 people. Of this gas franchise area, about 494 square miles, or 75%, is also part of the franchise area of NEES' electric subsidiaries, and approximately 78% of the gas customers are also served with electricity by the NEES electric companies. The NEES gas subsidiaries and NEES' ownership of their common stock are as follows:

<i>Company</i>	<i>% Common Stock Ownership by NEES</i>
Central Massachusetts Gas Company	100.00
("Central Massachusetts")	
Lawrence Gas Company	90.43
("Lawrence")	
Lynn Gas Company	93.76
("Lynn")	
Mystic Valley Gas Company	99.41
("Mystic")	
North Shore Gas Company	97.52
("North Shore")	
Northampton Gas Light Company	100.00
("Northampton")	
Norwood Gas Company	99.38
("Norwood")	
Wachusett Gas Company	100.00
("Wachusett")	

Most of these gas properties were acquired by NEES in the period from 1926 to 1931. As of December 31, 1958, the NEES investment in gross gas plant and equipment was approximately \$56,300,000 and gross revenue from gas

³ The basic figures in the record are for the year ended December 31, 1958, the latest year for which audited financial statements were available at the time of the hearings, and 1958 has been used as a test year for the purposes of these proceedings.

sales in 1958 was approximately \$22,700,000. The bulk of the gas sold by the NEES subsidiaries is natural gas produced in the southern United States, principally Texas, and purchased from pipeline companies that deliver it to Massachusetts.⁴ Each of the gas subsidiaries also owns and operates facilities for the production of manufactured gas for peak-shaving and emergency stand-by purposes.

After an attempt to sell the gas properties in the early 1950's which was not consummated because of the prospective purchaser's inability to obtain required financing, in 1952 NEES separated various aspects of the activities of the gas subsidiaries from those of the electric companies. It established a Gas Division with headquarters at Malden, Massachusetts,⁵ to supervise the 8 gas companies. The executive head of the Gas Division is also president of each of the gas companies and the staff of that Division are all part-time employees of each of the gas companies, and the salaries of those persons are paid pro rata by those companies. The Gas Division has four functional departments—management, marketing and supply, operations, and merchandising—and provides centralized service to the gas companies with respect to such matters as gas acquisition and distribution, engineering, sales promotion, and new business development. Each of the gas companies has a vice-president and general manager who is in immediate charge of the company and reports directly to the head of the Gas Division; the latter, in turn, is responsible to the NEES top management.

Other aspects of the gas and electric business have continued to be handled on a joint basis. Such joint activities

⁴ Seven of the gas companies purchase natural gas from one pipeline, and the remaining company purchases such gas from another pipeline. About 98% of the natural gas is purchased from the first pipeline company.

⁵ All of the gas companies are within 48 miles of Malden, except one which is 80 miles distant.

include treasury and accounting services, meter reading, customer billing, labor negotiations and administration of employee programs, procuring insurance, purchasing operations, and joint use of office and other space and equipment. Some of these services are performed by NEPSCO on a contract basis with the individual system companies. NEPSCO's services include supervision of local accounting departments, preparation of tax returns and regulatory reports, and handling of rate, personnel and public relations matters. In 1958 NEPSCO's charges to the gas companies aggregated \$317,000.

STATUTORY STANDARDS

Section 11(b)(1) of the Act imposes requirements for geographic and economic integration which were designed to eliminate evils that Congress found to exist "when the growth and extension of holding companies bears no relation to . . . the integration and coordination of related operating properties."⁶ Congress recognized that in the absence of clearly overriding considerations a utility system should have a management single-mindedly devoted to advancing the interests of its investors and consumers and not engaged, through the means of the holding company device, in operating other separate or competing utility or non-utility businesses. It accordingly laid down the basic requirement in Section 11(b)(1) that registered holding companies and their subsidiaries limit their operations to a single integrated public utility system and any other businesses reasonably incidental or economically necessary or appropriate to the operations of such system. Exemption from this requirement was provided in exceptional cases meeting specific geographic and economic tests. Under Clauses A, B and C of that Section, we must permit a

⁶ Section 1(b)(4) of the Act.

holding company to continue to control one or more additional integrated public utility systems if we find that:

“(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

“(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

“(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation.”

It is well settled that gas properties and electric properties, since they pertain to different and competing utility businesses, do not constitute a single integrated public utility system,⁷ and as noted NEES concedes that its electric and gas properties constitute two separate integrated public utility systems. Since NEES has elected to retain the electric properties as its principal system, the gas properties can be retained as an additional system under NEES' control only if the tests of Clauses A, B, and C above are satisfied. There is no question under Clauses B and C. Since all the NEES gas subsidiaries are located within Massachusetts, the standard of Clause B is met. Also the Division acknowledges, and we find, that the size of the combined gas and electric operations is not so large

⁷ See *Columbia Gas & Electric Corp.*, 8 S.E.C. 443, 462-63 (1941); *The United Gas Improvement Co.*, 9 S.E.C. 52, 77-83 (1941); *The North American Co.*, 11 S.E.C. 194, 215-216 (1942), *aff'd* on other grounds *sub nom. North American Co. v. S.E.C.*, 133 F.2d 148 (C.A. 2, 1943); *Philadelphia Co.*, 28 S.E.C. 35 (1948), *aff'd sub nom. Philadelphia Co. v. S.E.C.*, 177 F.2d 720, 723 (C.A.D.C., 1949).

as to raise any substantial question under the standards of Clause C with respect to the advantages of localized management, efficient operation, and the effectiveness of regulation. The issue remains, therefore, whether continued control by NEES of the gas companies is necessary to prevent the loss of substantial economies within the meaning of Clause A.

Clause A was intended to limit the retention of utility systems in addition to the principal system controlled by a holding company to situations where it could be shown that the additional systems were integrated in nature and "were so small that they were incapable of independent economic operation"⁸ and had a "real economic need" for management together with the principal system.⁹ Congress was aware that some loss of economies would usually result from the separation of jointly controlled utility systems,¹⁰ but considered that continued joint management should be permitted only where separation would entail a loss of economies which would be substantial in the sense that they were important to the ability of the additional system

⁸ Remarks of Senator Wheeler following passage of the Act, 79th CONG. REC. 14479 (1935): "After considerable discussion the Senate conferees concluded that the furthest concession they could make would be to permit the Commission to allow a holding company to control more than one integrated system if the additional systems were in the same region as the principal system and were so small that they were incapable of independent economical operation. . . ."

⁹ H.R. Rep. No. 1903, 74th Cong., 1st Sess., p. 71 (1935). See also *The North American Co. v. S.E.C.*, 327 U.S. 686, 696-97 (1946): "In essence [Section 11(b)(1)] confines the operations of each holding company system to a single integrated public utility system with provision for the retention of additional systems only if they are *relatively small . . . and unable to operate economically under separate management without the loss of substantial economies.*" (Emphasis added.)

¹⁰ See Hearings before Committee on Interstate and Foreign Commerce on H.R. 5423, 74th Cong., 1st Sess. (1935), Pt. 2, pp. 1249, 1402-03, 1530-31, Pt. 3, pp. 2257-77, and before Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess. (1935), p. 65.

to operate soundly. As stated by the United States Circuit Court for the District of Columbia:

“ ‘Substantial economies,’ means something different and, we think, something more than substantial savings in operational expenses. Congress could have said that the divorcement shall not be decreed if the controlling utility or the controlled utility show at a hearing that the cost to operate the latter separately from the former would be substantially greater. If the Act can be construed as meaning just that, then the severance ordered here is wrong. ‘Substantial economies’ must mean, as was said in *North American Co. v. Securities and Exchange Commission*, 2 Cir., 133 F.2d 148, 152, ‘important economies.’ The required *importance* must relate to the healthful continuing business and service of the freed utility. But Congress was not so much concerned with the profit motive of utilities as with the evils that had become prevalent through combinations of utilities. It was first concerned with the wiping out of the evils which the practice of utility combinations had produced, and Congress only consented to dull the blade of its chosen weapon in proved hard cases.” (Italics in original.)¹¹

In light of the legislative background, as buttressed by court interpretation, demonstrating that Clause A was meant to provide for a limited exception to the general policy expressed in the Section, we have held that the clause must be strictly construed and that a registrant seeking to retain an additional system has the burden of showing by clear and convincing evidence that such additional system cannot be operated under separate ownership without the

¹¹ *Engineers Public Service Co. v. S.E.C.*, 138 F.2d 936, 944 (C.A. D.C., 1943).

loss of economies so important as to cause a serious impairment of that system.¹²

ESTIMATED LOSS OF ECONOMIES FROM SEVERANCE OF GAS SYSTEM

In support of their position that severance of the gas subsidiaries from the NEES system would result in the loss of "substantial economies" within the meaning of Clause A, respondents rely essentially upon a study made for them by Ebasco Services Incorporated ('Ebasco'), management consultants with extensive experience in the utilities field, which showed that severance would bring an increase in operating costs. Based on Ebasco's supplemented study,¹³ respondents' estimated increase in annual

¹² *Engineers Public Service Co.*, 12 S.E.C. 41, 60 (1942); *Philadelphia Co.*, 28 S.E.C. 35, 45-47 (1948), *aff'd sub nom Philadelphia Co. v. S.E.C.*, 177 F.2d 720 (C.A.D.C., 1949); *Middle South Utilities Inc.*, 35 S.E.C. 1, 11 (1953); *The North American Co.*, 11 S.E.C. 194, 208-9 (1942), *aff'd on other grounds sub nom. North American Co. v. S.E.C.*, 133 F.2d 148 (C.A. 2, 1943); *Cities Service Power & Light Co.*, 14 S.E.C. 28, 137 (1943); *The Middle West Corp.*, 15 S.E.C. 309, 318 (1944); *Cities Service Co.*, 15 S.E.C. 962, 984 (1944).

¹³ The study as initially presented assumed that each of the gas companies would be operated separately, it being respondents' view that, notwithstanding the gas companies are presently operated as a single integrated public utility system, the fact that they might be disposed of individually or in groups made it proper to consider the increase in costs which would be incurred under individual operation. Following objections by the Division that the proper approach required the assumption that the gas companies would continue to be operated together as a single system, rather than separately, the study was supplemented so as to provide for a Central Organization for the eight gas companies after severance. The study, as thus modified, indicated the estimated increase in annual operating costs of the gas system after severance would be \$329,400 less than the increase estimated on the initial assumption of eight separate gas companies without any Central Organization.

It would be inappropriate to give any weight to the estimates of increased costs to the gas companies on the assumption of separate operations by each of them after severance. Both we and the courts have held that the loss of economies to be considered under Clause A

operating costs of the gas system after severance would be \$1,165,600.¹⁴

In analyzing the Ebasco estimate of increased costs to the gas system, it is necessary at the beginning to make a downward adjustment in the amount of \$67,000, the amount by which NEPSCO's charges to the gas companies in 1958

is that pertaining to the additional integrated system sought to be retained (See *Engineers Public Service Co. v. S.E.C.*, *supra* note 11 at 944; *The North American Co. v. S.E.C.*, *supra* note 12 133 F.2d at 152; *Philadelphia Co.*, *supra* note 12, 28 S.E.C. at 52; *General Public Utilities Corp.*, 32 S.E.C. 807, 838-9 (1951)), and we find no basis for departing from this established interpretation of the Act in this case. Moreover, we noted in the *General Public Utilities* case at p. 835, note 33: "The severance study also estimated the 'loss of economies' upon the assumption that each of the gas divisions was a separate integrated public utility system. Since we have determined that the gas properties constitute a single integrated public-utility system, we have given no consideration to this aspect of the study."

Respondents' assertion that a sale of the gas properties as a single system may be difficult if not impossible to achieve is not borne out by the record and overlooks the fact that in 1951 NEES obtained three bids for its gas properties as a whole, which were then more extensive than those now held, even though as has been indicated the contract which was signed with the highest bidder was subsequently terminated because of the latter's failure to arrange necessary financing. Moreover, it fails to consider other methods of divestment of the gas system as a whole. Thus, NEES' stock holdings in the gas companies could be placed in a new company the stock of which could be sold or distributed as dividends to the NEES stockholders over an appropriate period of time.

¹⁴ The study also estimated that the costs of the NEES electric subsidiaries would be increased after severance by \$804,800 per year. However, such increase is not a factor which could justify retention of the gas system if it is found that the latter can be economically operated independently of NEES. *General Public Utilities Corporation*, 32 S.E.C. 807, 838-39 (1951). The thrust of the statute is the limiting of interstate utility holding company operations to a single integrated utility system managed exclusively in the interests of its own investors and consumers and the restricting of ownership or domination of such a system by interests principally engaged in other activities. The Act is not directed at preserving the benefits which the principal activity derives from the joint ownership with the other activities. Moreover, it may be noted that in any event the asserted \$804,800 loss of economies to the electric system cannot properly be

would have been increased had a revised basis of payments authorized by us at the end of 1959 been in effect in 1958.¹⁵

We accordingly turn to the questions of whether the Ebasco estimate, thus reduced to \$1,098,600, is an acceptable basis on which to determine the present issues and whether it indicates that the test of Clause A is met. The Division contends that the estimate is not valid because it attributes excessive amounts of expenses to the *pro forma* combined gas operations and that, even assuming increased costs as estimated, they do not represent the loss of substantial economies warranting retention of the gas properties under common control with the NEES electric system.

The Ebasco estimate is inadequately supported in a number of important aspects and leaves considerable doubts which respondents have not satisfactorily overcome in the record. Of the total estimated increase in the expenses of the gas companies after severance, \$472,100 is attributed by Ebasco to so-called treasury and accounting costs, which comprise the categories of customer accounting, general accounting, machine accounting, stores accounting and miscellaneous services. The largest single item is with respect to customer accounting, as to which an increase in costs is estimated in the amount of \$415,600 or approximately 40% of the total \$1,098,600 estimated increase. In light of the fact that the supplemented Ebasco study, which assumed that the gas system would be operated on a combined basis, estimated the same increase in customer accounting costs as appeared in the original Ebasco study, which was based on the assumption that the companies would be operated

viewed as "substantial" in light of the fact that it is but 0.56% of that system's electric operating revenues and 0.76% of its electric operating revenue deductions before Federal income taxes.

¹⁵ Under the revision approved in 1959, NEES's payroll and related expenses were transferred to NEPSCO and were allocated to the companies benefiting from the services according to a designated formula.

separately, and in light of respondents, and Ebasco's failure adequately to explain why combined operations would not result in lesser amounts for such costs, we conclude that the \$415,600 figure is overstated.

More specifically, one of the important items making up the estimated increase in the cost of customer accounting after severance is customer billing. Ebasco projected the gas billing costs on the basis of separate billing operations by each of the gas companies. Its estimate provides for the employment of additional personnel and rental of additional equipment by those companies to do their own billing.¹⁶ At present, gas billing is done on a combined basis with one or more of the NEES electric companies in the case of each of the gas companies except Norwood, the smallest of the companies.¹⁷ However, respondents have not given any satisfactory reason why at least some form or forms of combined billing procedure could not be employed advantageously by the gas companies, in light of the fact that their aggregate of 237,000 customers is located in a relatively compact area.¹⁸

¹⁶ The exact cost attributable by Ebasco to the additional billing personnel and equipment in the case of each of the gas companies is not identified in the estimate, but in the case of Mystic and Lynn they would total \$34,700.

¹⁷ Wachusett and Central Massachusetts have their billing done by the NEES Central District Treasury Organization at Worcester. The billing for Lawrence is done jointly with that of Merrimack Electric Co. Lynn and Lynn Electric Company and Northampton and Northampton Electric Company also have joint billing operations for their respective gas and electric customers. Mystic's and North Shore's billing is done at Malden, together with the billing for Suburban Electric Company.

¹⁸ The testimony of respondent's Ebasco witness clearly indicates that centralized billing is predominant in the utilities industry, and that savings would be effected thereby. However, although he expressed the opinion that central billing would not effect "too substantial" a saving for the severed gas companies, no attempt was made to determine whether, and the extent to which, such savings would be substantial.

Also inadequately explained and casting doubt on the estimates of increases in customer accounting expenses is the disparity between the increases attributed to the gas companies and those attributed to the electric companies. Thus, for example, in 1958 the cost of customer accounting performed for Northampton and Northampton Electric Lighting Company was allocated \$17,000, or \$2.12 per customer, to the gas company, and \$34,200, or \$3.60 per customer, to the electric company; whereas under the *pro forma* estimates, the gas company's costs after severance would amount to \$48,400, or \$6.03 per customer, representing an increase of 184%, and those of the electric company would be \$38,500, or only \$4.05 per customer, an increase of 13%. Even accepting NEES' contention that customer accounting costs should be viewed together with the other treasury and accounting costs, a substantially similar disparity appears. Total treasury and accounting payroll costs of Northampton, according to respondents' estimates, would increase by 85% to \$89,300, or \$11.13 per customer, while those of the Northampton Electric Company would increase by only 24% to \$88,900, or \$9.35 per customer. Again in the case of Lynn and Lynn Electric Company, which jointly serve approximately the same territory and a comparable number of customers, and which have done their treasury and accounting work jointly, in 1958 the payroll costs allocated to the gas company amounted to \$228,300, or \$5.58 per customer, and those charged the electric company were \$64,000, or \$8.02 per customer. Under respondents' estimates the *pro forma* costs would increase by 71% to \$390,133, or \$9.53 per customer, for the gas company and only by 22% to \$445,323, or \$9.81 per customer for the electric company. The record fails to indicate the validity of these disproportionate effects on the customer accounting and the total treasury and accounting costs of the gas and electric companies upon severance.

These areas of expense, in general, are related to the number of customers served and not the type of utility business conducted.

In view of respondent's burden of proof and the absence of a persuasive explanation on the record, Ebasco's failure to consider employment of combined billing procedures and its inadequately explained disparate treatment of certain effects of severance on the gas and electric companies, respective, substantially impair the credibility and preclude the acceptance of its estimate of a \$472,100 increase in treasury and accounting costs and, in turn, of its over-all estimate of increased costs (of which that figure is a material part) in the determination of whether severance would result in a substantial loss of economies.

Respondents contend that in addition to the estimated increased expenses to which they have assigned dollar amounts there will be other significant losses as a result of severance which are not measurable in dollars. They assert in particular that there would be a loss of experienced administrative, supervisory and long-range planning personnel and services. However, the Ebasco study purportedly estimated the costs of providing organizations for the gas companies which would supply appropriate performance and standards.¹⁹ Moreover, even assuming there

¹⁹ The Central Organization for the gas companies provided for under the supplemental Ebasco study is estimated to have an annual cost of \$574,000 and would include executive and supervisory officials and personnel. It would be headed by a president with an annual salary of \$40,000, as compared to the \$25,000 salary paid in 1958 to the President of the NEES Gas Division, who is also president of the eight gas subsidiaries. A new position of Executive Vice President would be created, with the incumbent, whose duties would include assisting the president and supervising the other executives, receiving a salary of \$25,000. Like the NEES Gas Division, it would have three assistants to the president and a sales manager, with functions and salaries similar to those at present except that the latter's salary would be \$17,500, representing an increase of \$4,000 per year, and reflecting additional sales promotion duties which would be delegated to him

would be some "intangible" losses, they must be regarded as part of the over-all effects of severance which normally accompany any reorganization of operations and which Congress must have anticipated when it provided that, other than in exceptional circumstances, separate utility systems should be under separate control. Further, we are unable to accept the suggestion that the NEES integrated gas system, the second largest gas utility operation in Massachusetts, would not be able to provide management and service comparable to that provided by other gas utilities in the state.²⁰ In that effort it would also have the benefit of the experience in unified gas operations gained by the Gas Division since its formation in 1952.

Even were we to accept the \$1,098,600 estimate of loss of economies to the NEES gas companies, it would not lead us to conclude that such a loss is so substantial, when compared with the loss of economies involved in prior divestment cases and viewed in light of the objectives of the Act, as to warrant retention of the gas properties under common control with the NEES electric system. Although that amount is larger than the amounts involved

by the president. Twelve additional employees would be provided to handle public and personnel relations and safety and purchasing matters. The salaries of these latter employees would total \$87,000, approximately the same amount paid in 1958 as salaries to locally employed personnel and NEPSCO for similar services.

²⁰ See *Cities Service Co.*, 15 S.E.C. 962, 982 (1944), where in rejecting a contention that deprivation of the services of a system service company would result in loss of substantial economies, we observed that:

"to accept an estimate of present benefit from services rendered by system service companies as a measure of economies which would be lost as a result of independence requires us to assume that financial severance will cast operating units completely adrift, incapable of providing themselves with comparable benefits as cheaply either directly or through mutual arrangements with other operating units. We cannot make that assumption."

See also *The North American Company*, 11 S.E.C. 194, 210 (1942).

in prior severance cases, we have previously pointed out that the test of the substantiality of the estimated loss is not in absolute terms but rather in relation to total revenues, expense and income.²¹ In the instant case, the amount of the estimated loss of economies would be equal to 4.83% of the gas system's operating revenues, 6.03% of operating revenue deductions (excluding federal income taxes), and 23.28% of gross income and 29.94% of net income before federal income taxes. These ratios are lower or not significantly higher than corresponding ratios of gas systems whose divestment we have required on the ground that the estimated loss of economies was not substantial within the meaning of Clause A.²²

Respondents and the Massachusetts DPU argue that an increase in operating costs would have an exceptionally adverse impact in the case of the NEES gas subsidiaries and therefore should be viewed as more serious than an equal dollar amount of increases in other cases because of the highly competitive position of gas in relation to fuel oil in the Massachusetts area. They point out that natural gas is piped from Texas and the price is higher in the New England area than in any other part of the country, whereas oil is brought in by tanker and its price is virtually the same as or lower than in any other part of the United

²¹ *Philadelphia Co.*, 28 S.E.C. at 49; *General Public Utilities Corp.*, 32 S.E.C. at 837.

²² Attached as an Appendix is a table which compares the adjusted Ebasco estimate of loss of economies to the NEES gas subsidiaries with the estimated losses in the prior cases where similar computations were made, in all of which we ordered divestment of the additional system. We do not attribute any comparability to the present case to the gross income and net income ratios of the gas properties of Jersey Central Power & Light shown in that table, which are substantially higher than those of the NEES gas group, because the gross income of Jersey Central's gas department prior to any severance adjustments was found to be so low as to represent an unusually low rate of return on the amounts invested in that property. See *General Public Utilities Corp.*, 32 S.E.C. 807, 837 (1951).

States. The chief market for gas in the NEES area is residential space heating, and Ebasco estimated that the annual cost of gas for heating a typical New England house is \$166, as compared with the cost of oil of \$173, whereas in other parts of the United States the differential ranges from \$27 to \$118 in favor of gas. It is contended that an increase in the cost of gas operations as a result of severance would force an increase in gas rates to customers, and that such an increase would impair the slight competitive advantage now held by gas.

However, even assuming that the described competitive conditions in Massachusetts will continue to prevail, despite efforts to improve the cost position of gas through such means as storage of off-peak natural gas, those conditions obtain generally throughout Massachusetts. There is no evidence that they do not affect in the same manner other independent gas utility companies in the state which nevertheless have been able to conduct their operations and, apparently, earn a fair return without the alleged advantages of common control with electric utilities by a holding company. The situation of the independent companies is different, respondents contend, because the opportunity for increased sales in the NEES gas service area is limited by a more moderate rate of economic growth, population increase, and suburban housing construction than in other parts of the state.²³ However, respondents failed to show that, because of these factors, the impact of severance would be such that the combined NEES gas operations, which are larger than those of most of the other gas utility companies in Massachusetts, would be unable to

²³ Respondents point out that between 1950 and 1960 the population in the NEES franchise areas increased by only 11% while in the franchise areas of seven independent Massachusetts gas companies used by the Division for comparison (see p. 13, *infra*) the increase was 18%.

compete effectively with oil, even though the nonaffiliated companies are able to do so.²⁴

Moreover, the operating ratio²⁵ of the NEES gas system after severance of 76.41% would be more favorable or only slightly higher than that of nine nonaffiliated Massachusetts gas companies selected by respondents for comparison that have no joint electric operations, which have a composite ratio of 79.14% and median and mean ratios of 74.87 and 76.35%, respectively.²⁶ In light of the fact that the operating ratio of the NEES gas companies, even considering Ebasco's estimated increased costs, would still be substantially favorable in comparison with the independent Massachusetts companies, we would be entering the realm of speculation at this time to assume that rate increases would ensue from severance. Especially is this so in view of our finding that these increased cost estimates, on which respondents and the Massachusetts DPU rely in stating that gas rates would have to be increased upon severance, are overstated.

²⁴ Of 12 nonaffiliated Massachusetts gas companies which respondents selected for comparison with NEES, only one exceeded the NEES gas utility system in size of gross plant, gross annual revenues, and number of customers. It may also be noted that the NEES gas system is substantially larger than systems we have ordered divested in prior cases, such as those whose pertinent data are set forth in the Appendix table. We found that several of those systems in turn were larger than companies that had demonstrated conclusively their ability to operate effectively free of holding company control. See *Philadelphia Co.*, 28 S.E.C. 35, 46-7 (1948); *Middle South Utilities, Inc.*, 35 S.E.C. 1, 11 (1953).

²⁵ "Operating ratio" as used above is the percentage of total operating revenue deductions (other than depreciation, amortization of conversion costs, and Federal income taxes) to total operating revenues.

²⁶ The nine independent Massachusetts gas companies and their operating ratios are: The Berkshire Gas Co., 74.06%; Boston Gas Co., 82.5%; Brockton Taunton Gas Co., 74.59%; Buzzards Bay Gas Co., 73.77%; Fall River Gas Co., 77.31%; Haverhill Gas Co., 74.87%; Lowell Gas Co., 75.75%; Springfield Gas Light Co., 74.65%; and Worcester Gas Light Co., 79.64%.

We also find no merit in respondents' contention that in order to avoid reduction of gas net earnings after severance, gas operating revenues would have to be increased by additional revenue of approximately \$1,500,000, consisting of \$1,098,600 to offset the estimated increased costs plus about \$400,000 to offset, on a two-dollar for one-dollar basis, the asserted nonavailability to the gas companies of an estimated \$200,000 of tax reductions presently resulting from joining in the consolidated income tax return filed by the NEES system. The test of Section 11(b)(1) governing the retainability of additional public-utility systems is not based upon reduction of net earnings upon severance but rather solely upon whether the increased operating costs occasioned by severance are "substantial." With respect to the claimed nonavailability of consolidated tax savings, we have held on prior occasions that any such saving is not related to any operational function of retention of control and is not an appropriate factor upon which to determine retainability of an additional system.²⁷ In addition, it does not appear that a gas holding-company system that would emerge after severance would not be able to secure all or substantially all of the tax benefits now available to the gas companies under NEES ownership. Moreover, respondents did not show any reason why the consolidated debt ratios (including the effect thereon of NEES own corporate debt) that now appertain to the NEES gas companies and affect the system's consolidated income tax liability would not also be imputed to the new gas holding-company system.

Respondents have also argued that in reaching the conclusion in prior cases that estimated losses of economies were not substantial we considered that separation of the management of the gas or other properties of the addi-

²⁷ *Philadelphia Co.*, 28 S.E.C. 35, 73 (1948); *Cities Service Co.*, 15 S.E.C. 962, 985 (1946).

tional system from that of the principal system would result in offsetting advantages. They assert that there would be no such advantages in separation of the NEES gas companies because, as a result of the creation of the NEES Gas Division in 1952, the benefits that flow from centralized and separated operation of the gas business have already been achieved.

We cannot accede to the view that such a separation of the gas from the electric operations has been effected as to secure the kind of single-minded management for each that would obtain upon actual divestment. Although the NEES Gas Division handles sales and promotional activities and various other matters for the gas subsidiaries separately from the electric companies, final authority on all important matters rests in the top NEES management. The basic competitive position that exists between gas and electric utility service within the same locality²⁸ is affected by such vital management decisions as the amount of funds to be raised for or allocated to the expansion or promotion of each type of service. It is asserted by respondents and the Massachusetts DPU that NEES has made all such decisions with full regard for the needs of the gas companies, has vigorously promoted the gas business, and has not suppressed that business in favor of the NEES electric business. The Division points to the fact that of twelve independent Massachusetts gas companies used by respondents for comparison with NEES, seven which the Division considered comparable had substantially higher mcf sales and revenues per customer than the NEES gas companies²⁹

²⁸ See *Philadelphia Co.*, 28 S.E.C. at 48; *Engineers Public Service Co.*, 12 S.E.C. 41, 58 (1942).

²⁹ The NEES gas companies sold 44.2 mcf per customer in 1958 while sales of the 7 independent gas companies compared to NEES were 78.8 mcf per customer, or 78% greater. In 1959 the NEES sales were 51.5 mcf per customer compared with sales of 83.7 mcf per customer by the independent group, or 63% greater.

and their customers pay less per mcf of gas consumed than the NEES gas customers.³⁰ It must be recognized that *prima facie* this disparity in favor of the independent companies, if it is at all meaningful, tends to indicate that the independent gas operations have been more effective than those of NEES gas management. Although the Massachusetts DPU argues that much of this disparity is caused by the difference in population characteristics of the NEES franchise areas and those of the independent companies because the latter had a more rapidly growing suburban residential population, no specific demonstration of the existence or extent of such a causal relation was presented. In any event, it is clear that the determinations respecting the basic interests of the gas companies are made by NEES officials who occupy a dual position in which they must weigh the needs and objectives both of those companies and of the electric companies which represent the principal and most profitable business of the NEES

Respondents object to the Division's elimination of Boston Gas Co. in making its comparisons. The Division considered that company not to be comparable to the NEES gas companies because it remained a distributor of lower btu manufactured or mixed gas until 1960, whereas the NEES companies distributed natural gas only. The difference in the nature of the gas sold is a material factor affecting comparability, but even were Boston Gas Company included the over-all comparison would not be substantially changed. Boston Gas Company's total gas sales were greater than those of the NEES group, being 57.0% mcf per customer compared with 44.2 mcf for NEES in 1958, and 62.3 mcf per customer compared with 51.5 mcf for NEES in 1959, although in the area of domestic gas sales, Boston Gas sold less than the NEES group, its sales being 34.0 mcf per customer compared with 34.9 mcf for NEES in 1958 and 37.4 mcf compared with 56.1 mcf in 1959. Revenue from gas sales by the NEES companies in 1958 was \$95.44 per customer compared with \$135.19 per customer for the 7 independent companies. In 1959 the comparable figures were \$104.49 for the NEES group and \$142.10 per customer for the independent group.

³⁰The cost of gas to NEES customers in 1958 was \$2.16 mcf sold compared with \$1.72 per mcf for the independent group, and in 1959 NEES customers paid \$2.03 per mcf while customers of the independent gas companies paid only \$1.70 per mcf.

system. On the basis of the facts presented in this case we cannot conclude that a management solely interested in and devoted to the gas operations would not be able to advance them more effectively.

Respondents and the Massachusetts DPU further contend that in deciding whether substantial economies would be lost by severance of the gas companies we must accord great if not conclusive weight to that Department's views in favor of the retention of the gas properties within the NEES system. They argue that the Act reflects a Congressional recognition that the desirability of combined gas and electric operations is essentially a local question and indicates a policy of accommodation to the desires of local regulatory authorities on that question. They point to the fact that we have in prior cases granted exemptions from the Act under Section 3 and permitted separation from our jurisdiction pursuant to reorganization plans filed under Section 11(e) of companies having combined gas and electric operations. They cite in particular *Northern States Power Company*³¹ which referred to those cases and expressly followed the recommendation of the local regulatory authorities in granting such an exemption.

We of course agree that the views of interested regulatory authorities should always be carefully considered, and have done so in this case. However, we do not view the statutory pattern as contemplating that the standards of Section 11 should yield to the views of state or local authorities whenever the properties whose joint retainability under that Section is in question are gas and electric properties. Section 8 of the Act, to which the Massachusetts DPU points particularly, requires state approval of acquisitions of gas and electric properties to be jointly owned or operated if state law prohibits or requires approval of such

³¹ 36 S.E.C. 1 (1954).

combination. However, it merely serves to prevent circumvention of express state restrictions against such acquisitions by imposing a condition of state approval even though acquisitions are otherwise permissible under the standards of the Act, and does not relate to the divestment of properties under the policy embodied in Section 11 (b)(1). It must be read together with the provisions of Sections 9 and 10 which impose other conditions to acquisitions that apply even if all state laws are met and which are directed toward and embrace the standards of Section 11. Section 10(c) expressly provides that we shall not approve an acquisition which is unlawful under Section 8 or detrimental to the carrying out of the provisions of Section 11 or which we are unable to find would tend to promote the economical and efficient development of an integrated public utility system. It is clear that the economic and geographic integration objections of Section 11 were uppermost in Congress' mind in adopting Sections 9 and 10,³² and that Section 8 was not intended to permit any relaxation of those objectives. There is significantly no reference in Section 11 to considerations of state or local policy, as there is in various other sections of the Act,³³ and the federal policy embodied in that Section is clearly paramount.³⁴

We do not take the view that the Act expresses a federal policy against combined gas and electric operations as such. The Act is concerned with interstate holding company activities and within that area it prescribes tests of retainability which must be met. In the cases where we granted exemptions or otherwise released jurisdiction despite the existence of combined gas and electric operations, the hold-

³² See S. Rep. No. 621, 74th Cong., 1st Sess. (1935), pp. 29-30; H. R. Rep. No. 1318, 74th Cong., 1st Sess. (1935), p. 15.

³³ Cf. Sections 6(b), 7(g), 8, 9(b)(1), 9(b)(2), 10(f) and 20(b).

³⁴ See *Public Service Commission v. S.E.C.*, 166 F.2d 784, 787 (C.A. 2, 1948), cert. denied 334 U.S. 838.

ing companies involved did not come within that area because they and their subsidiaries were entirely intrastate or were primarily operating companies or because under the Section 11(e) reorganization plan which was to be effected no interstate holding company system with combined operations would survive. In exemption situations we are not required to determine whether the requirements of Clauses A, B and C of Section 11(b)(1) are satisfied; where the applicable geographic and operational requisites are otherwise met our inquiry with respect to the combined operations aspect is limited to determining whether it affirmatively appears that such operations would be detrimental to the public interest or the interests of investors or consumers. The *Northern States* case involved an application by a holding company which was also an operating company for an exemption from the Act pursuant to Section 3(a)(2), which provides for the exemption of a holding company and its subsidiaries where the holding company is predominantly a public utility company. We found that the predominance test and geographic requirements of Section 3(a)(2) were met, and it was on the question of whether the record showed that the exemption would have a detrimental effect that we considered the favorable views of the local authorities and found that they together with other data presented by the applicant overcame the contention of the Division to the contrary which was supported by a study that we found to be unpersuasive.³⁵

In the present case the issue is whether respondents, an

³⁵ Respondents and the Massachusetts DPU also cite *Middle South Utilities, Inc.*, 35 S.E.C. 1 (1953), where in proceedings under Section 11(b)(1) the City of New Orleans recommended retention by New Orleans Public Service, Inc., a subsidiary of Middle South whose principal business was electric, of gas and transportation properties and we did not order divestment of those properties. However, one of the factors presented by the City was that it had purchase option rights which would have been lost by severance. It was partly because of that situation that we decided not to order divestment at that time

interstate holding company system headed by NEES, have made the requisite showing under Clause A of Section 11(b)(1) that the losses from severance of the gas companies would be substantial. As has been stated, respondents rely on the Ebasco study. The Massachusetts DPU which has made no study itself, states that the estimates contained in the study conform to the losses of economies that its own familiarity with the NEES system would lead it to anticipate, and it joins in Ebasco's opinion that such losses would be substantial. We have seen that the study is deficient with respect to its principal item of estimated loss, thus materially impairing its persuasiveness and making it unacceptable. We have also been unable on the basis of the record before us to accept the contention that there would be other significant losses not reflected in the dollar estimates or to find that the gas companies could not be soundly and economically operated independently of NEES, even assuming the validity of the estimates in the Ebasco Study. On the basis of our consideration of the entire record as to the nature and extent of the claimed losses, we cannot find that respondents have met their burden of showing that the test of Clause A for the retention of the gas properties under the control of NEES is satisfied.

CONCLUSIONS

In view of the foregoing we shall direct NEES to take appropriate action to divest itself of its interests in the system's gas properties.

The remaining issue in these proceedings relates to the retainability by NEES of its interest in NEPSCO. Since

but rather to defer decision on that issue, which is still pending. See S.E.C. 26th Annual Report, 133 (1960). In that same opinion we ordered separation of the gas properties of Louisiana Power & Light Company, another subsidiary, from its electric properties, and we subsequently refused to revoke or modify that order despite the position of the Louisiana Public Service Commission that independent operation of the gas system would increase expenses. *Middle South Utilities, Inc.*, 36 S.E.C. 383 (1955).

it appears that the operations of NEPSCO are reasonably incidental and economically necessary and appropriate to the operations of the integrated electric utility system of NEES, the proceedings will be dismissed insofar as they relate to the retainability of that company.

An appropriate order will issue.

Chairman CARY and Commissioners WOODSIDE and COHEN join in the above opinion.

ORVAL L. DuBOIS
Secretary

ORDER REQUIRING DIVESTMENT OF NON-RETAINABLE
PROPERTIES AND PERMITTING RETENTION OF
SERVICE COMPANY

The Commission having instituted proceedings pursuant to Section 11(b)(1) of the Public Utility Holding Company Act of 1935 with respect to New England Electric System ("NEES") and its subsidiary companies to determine what action, if any, should be required to limit the operations of the system to a single integrated public utility system and to such additional systems and other businesses as are retainable under the provisions of Section 11(b)(1) of the Act;

The Commission having previously found that the electric utility properties of NEES constituted a single integrated public utility system within the definition set forth in Section 2(a)(29)(A) of the Act and having dismissed the proceedings relating to that issue while retaining jurisdiction over the remaining issues (38 S.E.C. 193 (1958));

A public hearing having been held after appropriate notice, at which evidence was adduced with respect to the remaining issues whether the gas utility assets of NEES are retainable by NEES as an additional integrated utility system and whether NEES may retain its interest in New England Power Service Company as a business whose

operations are reasonably incidental or economically necessary or appropriate to the operations of the integrated electric utility system; and briefs and proposed findings and conclusions having been filed, and oral argument having been heard; and

The Commission having considered the record, and having this day issued its Findings and Opinion herein; on the basis of such Findings and Opinion

IT IS ORDERED, pursuant to Section 11(b)(1) of the Act, that the New England Electric System dispose of the gas utility properties presently controlled by it and terminate its relationship with the following companies by disposing of or causing the disposition, in an appropriate manner not in contravention of the Act or the Rules, Regulations or Orders of the Commission thereunder, of all interests, direct or indirect, which it holds in those companies:

Central Massachusetts Gas Company

Lawrence Gas Company

Lynn Gas Company

Mystic Valley Gas Company

North Shore Gas Company

Northampton Gas Light Company

Norwood Gas Company

Wachusett Gas Company

IT IS FURTHER ORDERED that the proceedings be, and they hereby are, dismissed insofar as they relate to the issue of whether the operations of New England Power Service Company are reasonably incidental and economically necessary and appropriate to the operations of the integrated electric utility system of New England Electric System and are retainable as such.

IT IS FURTHER ORDERED that jurisdiction be, and it hereby is, reserved to take such further steps as are necessary and appropriate to carry out the terms of this order.

By the Commission.

ORVAL L. DuBOIS

Secretary

	Engineer Public Service Co.			The North American Co.			Philadelphia Co.		
	Gas Properties of Gulf States Utilities Co.-1940 Per cent of estimated loss of economies to: Amount	Gas Properties of Virginia Electric and Power Co.-1940 Per cent of estimated loss of economies to: Amount	Gas Properties of The St. Louis County Gas Co.-1942 Per cent of estimated loss of economies to: Amount	Gas Properties of The St. Louis County Gas Co.-1942 Per cent of estimated loss of economies to: Amount	Gas Properties of The St. Louis County Gas Co.-1942 Per cent of estimated loss of economies to: Amount	Gas Properties of The St. Louis County Gas Co.-1942 Per cent of estimated loss of economies to: Amount	Gas Properties of The St. Louis County Gas Co.-1942 Per cent of estimated loss of economies to: Amount	Gas Properties of The St. Louis County Gas Co.-1942 Per cent of estimated loss of economies to: Amount	Gas Properties of The St. Louis County Gas Co.-1942 Per cent of estimated loss of economies to: Amount
Operating revenues	\$636,711	6.58	\$1,057,000	3.38	\$2,748,770	5.85	\$16,656,560	3.00	
Operating revenue deductions (excluding Fed. inc. taxes)	\$444,006	9.46	\$ 735,294	4.86	\$2,009,757	8.01	\$13,197,866	3.79	
Gross income (before deducting Fed. inc. taxes)	\$201,594	20.85	\$ 317,890	11.25	\$ 742,027	21.68	\$ 3,565,357	14.03	
Net income (before deducting Fed. inc. taxes)	\$166,402	25.25	\$ 168,412	21.23	\$ 661,110	24.34	N.A.	N.A.	
Estimated loss of economies claimed	\$ 42,024		\$ 35,750		\$ 160,900		\$ 500,328		
General Public Utilities Corp.									
	Electric Properties of Northern Pennsylvania Power Co. - 6/30/49 Per cent of estimated loss of economies to: Amount			Jersey Central Power & Light Company - 6/30/49 Per cent of estimated loss of economies to: Amount			Middle South Utilities, Inc. Gas Properties of Louisiana Power & Light Company - 1954 Per cent of estimated loss of economies to: Amount		
	\$4,027,081	1.44	\$4,714,958	4.87	\$4,235,661	5.42	\$5,264,186	5.18	\$22,752,270
Operating revenues									
Operating revenue deductions (excluding Fed. inc. taxes)	\$3,046,479	1.90	\$4,235,661	5.42	\$4,112,285	6.63	\$4,112,285	6.63	\$18,207,191
Gross income (before deducting Fed. inc. taxes)	\$ 981,980	5.90	\$ 479,477	47.84	\$ 1,151,901	23.68	\$ 1,151,901	23.68	\$ 4,718,664
Net income (before deducting Fed. inc. taxes)	\$ 855,101	6.27	\$ 203,262	112.24					\$ 3,469,931
Estimated loss of economies claimed									\$ 3,469,931

1940-1941

APPLICATION
of Respondents for Stay of Order
Pending Judicial Review

New England Electric System ("NEES") and its subsidiary companies, the Respondents in the above-captioned matter, hereby petition that pending judicial review the Securities and Exchange Commission postpone the effective date of that portion of the order of the Commission entered in this case on March 19, 1964 which requires that "New England Electric System dispose of the gas utility properties presently controlled by it and terminate its relationship with the following companies by disposing of or causing the disposition of, in an appropriate manner, not in contravention of the Act or the Rules, Regulations or Orders of the Commission thereunder, of all interests, direct or indirect, which it holds in those companies:

Central Massachusetts Gas Company

Lawrence Gas Company

Lynn Gas Company

Mystic Valley Gas Company

North Shore Gas Company

Northampton Gas Light Company

Norwood Gas Company

Wachusett Gas Company".

After examination of the March 19, 1964 order of the Commission and the findings and opinion of the Commission on which the order is based, the Respondents have determined to file in the Court of Appeals for the First Circuit, within the time prescribed by Section 24(a) of the Public Utility Holding Company Act of 1935, a petition that the court review and set aside, modify or grant other relief with respect to the above-quoted portion of said order.

As required by Rule XII(c) of the Rules of Practice of the Commission, this Application is made prior to filing the petition for review and is accompanied by a written

Brief of the points and authorities relied upon in support of the Application. As is more fully stated in such Brief, the Respondents question whether the Commission may properly require that the Respondents apply first to the Commission for a stay and accordingly the Respondents hereby reserve their right to challenge the requirement and to initiate at any appropriate time separate proceedings for stay before the Court of Appeals for the First Circuit.

By their attorneys,

JOHN R. QUARLES

50 Federal Street

Boston, Massachusetts

RICHARD B. DUNN

441 Stuart Street

Boston, Massachusetts

Attorneys for the Respondents.

ORDER GRANTING STAY

On March 19, 1964, we issued our Findings, Opinion and Order, pursuant to Section 11(b)(1) of the Public Utility Holding Company Act of 1935, among other things directing that the New England Electric System ("NEES") dispose of its gas utility properties and terminate its relationship with its eight gas utility subsidiary companies (Holding Company Act Release No. 15035). The order was based on our findings that NEES and its subsidiaries had not shown that the continued control by NEES of the gas properties as an additional integrated utility system is necessary to prevent the "loss of substantial economies" within the meaning of Section 11(b)(1) of the Act.

NEES and its subsidiary companies on May 14, 1964, filed an application for a stay of the effectiveness of that part of the order which requires NEES to dispose of its

interests in its gas properties and subsidiaries, pending the determination of a petition for judicial review to be filed by applicants.¹ In support of their application, applicants assert that if a stay is not granted and the reviewing court should subsequently reverse the divestiture order, they and their customers and security-holders will have suffered irreparable harm in view of the size of the divestiture ordered and the expense involved in undertaking preparations for compliance. They further assert that the granting of a stay would result in only a relatively short delay in carrying out the order and would not prejudice the public interest or the interests of investors or consumers.

We recognize, as our Division of Corporate Regulation points out, that Section 11(c) of the Act provides a period of one year for voluntary compliance with the order, which period may be extended by us for up to an additional year upon an appropriate showing. Nevertheless, we do not find that under all the circumstances the public interest would be adversely affected by the exercise of our discretion to grant a stay as requested.

Accordingly, IT IS ORDERED that the application for a stay of the divestment portion of the Commission's Order of March 19, 1964 pending the determination of a petition for judicial review of said portion of that order be, and it hereby is, granted.

By the Commission.

ORVAL L. DuBOIS

Secretary

By (s) NELLYE A. THORSEN

Assistant Secretary

¹ A petition for review was filed in the United States Court of Appeals for the First Circuit on May 15, 1964.

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 6332

NEW ENGLAND ELECTRIC SYSTEM
CENTRAL MASSACHUSETTS GAS COMPANY
GRANITE STATE ELECTRIC COMPANY
LAWRENCE GAS COMPANY
LYNN GAS COMPANY
MASSACHUSETTS ELECTRIC COMPANY
MYSTIC VALLEY GAS COMPANY
THE NARRAGANSETT ELECTRIC COMPANY
NEW ENGLAND POWER COMPANY
NEW ENGLAND POWER SERVICE COMPANY
NORTH SHORE GAS COMPANY
NORTHAMPTON GAS LIGHT COMPANY
NORWOOD GAS COMPANY
WACHUSETT GAS COMPANY,

PETITIONERS,

v.

SECURITIES AND EXCHANGE COMMISSION,
RESPONDENT.

PETITION OF NEW ENGLAND ELECTRIC SYSTEM
AND ITS SUBSIDIARY COMPANIES LISTED ABOVE
TO REVIEW AND SET ASIDE THAT PART OF THE
ORDER OF THE SECURITIES AND EXCHANGE
COMMISSION ENTERED MARCH 19, 1964 WHICH
REQUIRES THAT NEW ENGLAND ELECTRIC SYS-
TEM DISPOSE OF THE GAS UTILITY PROPERTIES
PRESENTLY CONTROLLED BY IT AND TERMI-
NATE ITS RELATIONSHIP WITH ITS GAS UTILITY
SUBSIDIARIES

TO THE HONORABLE JUDGES OF THE UNITED STATES
COURT OF APPEALS FOR THE FIRST CIRCUIT:

The Petitioners, New England Electric System ("NEES") and its subsidiary companies (NEES and its subsidiary companies are herein collectively referred to as the "NEES System" or the "System")*, respectfully petition this Court to review and set aside, modify or grant other relief with respect to that part of the order of the Securities and Exchange Commission (the "Commission") entered on March 19, 1964 which requires that NEES dispose of the gas utility properties presently controlled by it and terminate its relationship with its gas utility subsidiaries, such order having been entered in the Matter of New England Electric System and Its Subsidiary Companies, Respondents (Commission File No. 59-102 (Public Utility Holding Company Act of 1935)). Copies of the Commission's findings and opinion and of its order of March 19, 1964 are attached hereto as Exhibit A.

*New England Electric System is a Massachusetts voluntary association with transferable shares held by the public. It is a registered holding company under the Public Utility Holding Company Act of 1935, 49 Stat. 803 (1935), 15 U.S.C. § 79 (1958). All of the subsidiaries in the NEES System are adversely affected by the Commission's order by reason of the interrelation of their activities and personnel. In 1960, at the time of the presentation by the NEES System of its direct case before the Commission, the System included fourteen electric subsidiaries, eight gas subsidiaries and a service company subsidiary. As a result of subsequent mergers and dispositions there are now four electric utility subsidiaries—Granite State Electric Company, Massachusetts Electric Company, The Narragansett Electric Company and New England Power Company; eight gas utility subsidiaries—Central Massachusetts Gas Company, Lawrence Gas Company, Lynn Gas Company, Mystic Valley Gas Company, North Shore Gas Company, Northampton Gas Light Company, Norwood Gas Company and Wachusett Gas Company; and one service company subsidiary—New England Power Service Company, which provides service to the NEES System. New England Power Company owns 30% of the stock of Yankee Atomic Electric Company and 15% of the stock of Connecticut Yankee Atomic Power Company, neither of which is included as a Petitioner or referred to as a subsidiary of NEES herein.

This petition is filed pursuant to Section 24(a) of the Public Utility Holding Company Act of 1935, 49 Stat. 834 (1935), as amended, 15 U.S.C. §79x(a) (1958). The Petitioners are persons or parties aggrieved by the order because it requires that NEES take action which is not warranted by the facts as they appear in the record and which would result in substantial loss by the NEES System of operating efficiencies and economies and other benefits. As required by said Section 24(a), this petition is filed within sixty days after the entry of the order of the Commission.

In accordance with Rule 16(1) of the Rules of the United States Court of Appeals for the First Circuit, the Petitioners state as follows:

I. NATURE OF THE PROCEEDINGS AS TO WHICH REVIEW IS SOUGHT.

This is a proceeding under Section 11(b)(1) of the Public Utility Holding Company Act of 1935 (49 Stat. 820 (1935), 15 U.S.C. § 79k(b) (1958)) (the "Act"), begun by the Commission by notice and order for hearing dated August 5, 1957 (SEC Holding Co. Act Release No. 13525) to determine

"(a) Whether the electric utility assets of the New England Electric System holding company system constitute a single integrated electric utility system or more than one such system;

"(b) Whether the gas utility companies of the New England Electric System holding company system constitute a single integrated gas utility system or more than one such system;

"(c) The nature, extent and location of the 'single integrated public-utility system' of the New England Electric System holding company system;

“(d) Whether, in addition to the New England Electric System holding company system’s ‘single integrated public-utility system’, any of its additional electric or gas utility systems may be retained under common control under the provisions of Section 11 (b)(1) of the Act, specifically Clauses (A), (B) and (C) thereof;

“(e) Whether any of the non-utility business conducted by the New England Electric System holding company system are reasonably incidental, or economically necessary or appropriate to the operations of the integrated public-utility system or systems retainable under common control;

“(f) What action is necessary to be taken by the New England Electric System holding company system to limit the operations of the system to those of a single integrated public-utility system, together with such additional utility systems, and such other businesses, if any, as are retainable under the standards of Section 11(b)(1) of the Act.” SEC Holding Co. Act Release No. 13525, at p. 11 (August 5, 1957).

By agreement between counsel for Petitioners and the Commission, evidence was first taken with respect to the NEES System’s electric properties and operations, and on February 20, 1958, on Petitioners’ motion, the Commission made findings and entered an opinion and order declaring that the electric utility assets of the NEES System constitute an integrated public-utility system and dismissing the proceeding insofar as it related to that issue. SEC Holding Co. Act Release No. 13688 (February 20, 1958).

Thereafter, on May 18, 1960, by order of the Commission dated February 8, 1960, the hearing was resumed for the presentation of further evidence with respect to the other issues in the proceeding. SEC Holding Co. Act Release

No. 14159 (February 8, 1960). Petitioners and the Massachusetts Department of Public Utilities, as an Intervenor, presented five days of direct testimony and 53 exhibits relating principally to the questions whether the gas utility properties and operations of the NEES System were confined to a single integrated gas utility system and whether the gas utility properties were retainable by NEES along with its single integrated electric utility system under the standards of Section 11(b)(1) of the Act, particularly Clauses (A), (B) and (C) thereof. The hearing was reconvened on April 5, 1961 and April 24, 1961, for five days of cross-examination of Petitioners' witnesses with respect to their direct testimony offered almost a full year previously. Further exhibits were introduced, five by the Commission staff and seventeen by Petitioners at the Commission staff's request. The Commission staff offered no other evidence. On May 17, 1961, the hearing was reconvened for one day. At that time Petitioners introduced six more exhibits, the Commission's staff witness through whom its exhibits were introduced was cross-examined, and the hearing was closed. The total record in the case includes more than 1,750 pages of testimony and over 75 exhibits including the reports of Ebasco Services Incorporated, an independent engineering and consulting firm, which alone consist of over 500 pages.

In August, 1961 the Petitioners submitted their brief and proposed findings and conclusions to the Commission and the Massachusetts Department of Public Utilities, the Intervenor, filed its brief. In December, 1961 the Commission staff submitted its answering brief and proposed findings and conclusions. Reply briefs were filed in March, 1962 by the Petitioners and the Intervenor and in May, 1962 by the Commission staff. Oral argument on behalf of the Petitioners, the Intervenor and the Commission staff was held before the Commission on June 12, 1962.

On March 19, 1964 the Commission issued its findings and opinion and entered the order now appealed from. SEC Holding Co. Act Release No. 15035 (March 19, 1964). This petition is addressed to, and appeal is taken from that part of the order which requires that NEES "dispose of the gas utility properties presently controlled by it and terminate its relationship with the following companies by disposing of or causing the disposition, in an appropriate manner not in contravention of the Act or the Rules, Regulations or Orders of the Commission thereunder, of all interests, direct or indirect, which it holds in those companies:

Central Massachusetts Gas Company
Lawrence Gas Company
Lynn Gas Company
Mystic Valley Gas Company
North Shore Gas Company
Northampton Gas Light Company
Norwood Gas Company
Wachusett Gas Company".

The order also dismissed the proceedings insofar as they related to the issue of whether the operations of New England Power Service Company are reasonably necessary and appropriate to the operations of the integrated electric utility system of NEES and are retainable as such. That aspect of the order is not appealed from.

On May 14, 1964 in compliance with Rule XII(c) of the Commission's Rules of Practice, the Petitioners filed and there is now pending before the Commission an application asking that pending judicial review the Commission postpone the effective date of that part of the order now appealed from. The Petitioners seriously doubt the validity of said Rule and have reserved their rights, if they later decide to do so, to request this Court to grant such a stay.

II. FACTS UPON WHICH VENUE IS BASED
Section 24(a) of the Act provides in part that:

“Any person or party aggrieved by an order issued by the Commission under this chapter may obtain a review of such order in the United States court of appeals within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Commission be modified or set aside in whole or in part.”

All of the Petitioners have their principal places of business within the First Circuit.

III. GROUNDS ON WHICH RELIEF IS SOUGHT.

The Commission has previously found that the electric utility assets of the NEES System constitute a single integrated public-utility system, and the Commission has found that the NEES gas subsidiaries also constitute a single integrated public-utility system (page 2 of the findings and opinion on which the order appealed from is based). The only issue now remaining and the issue raised on this appeal is whether under Section 11(b)(1) of the Act the Commission is required to permit NEES to continue to control its integrated gas utility system as an additional integrated public-utility system for the reason that NEES has met the tests of Clauses (A), (B) and (C) of that Section. In its findings and opinion the Commission has found that without question NEES meets the standards of Clauses (B) and (C) (page 5 of the findings and opinion on which the order appealed from is based). This appeal thus squarely focuses on the test of Clause (A), namely whether the gas utility subsidiaries of NEES can or cannot “be operated as an independent system without the loss of

substantial economies which can be secured by the retention of control by [NEES] of such system." The Commission has concluded that the Petitioners have failed to demonstrate that this test is satisfied.

The Petitioners intend to raise the following points with respect to the Commission's findings and opinion and its order for divestiture:

1. The order is not supported by, and is not in accordance with the applicable law and the reliable, probative, substantial and uncontroverted evidence in the case.
2. The Commission has misconstrued Section 11 (b)(1)(A) of the Act in concluding that in this case losses of economies of nearly \$2,000,000 annually by the operating utility companies of the NEES System are not relevant and substantial within the meaning of that Section.
3. The Commission has misconstrued Section 11(b)(1)(A) of the Act in concluding that in this case losses of economies of \$1,098,600 annually by the gas utility companies of the NEES System are not substantial within the meaning of that Section.
4. The Commission has failed to make findings requested by the Petitioners and supported by substantial and uncontroverted evidence.
5. The Commission has not taken account of the testimony, expertise and opinion of the Massachusetts Department of Public Utilities on matters peculiar to the situation in Massachusetts and peculiarly within the knowledge and experience of said Department.
6. The Commission's findings and conclusions show that the Commission has not adequately examined the record in this case and has not applied its expert judgment to the evidence.

IV. RELIEF PRAYED.

The Petitioners pray:

1. That that part of the Commission's order of March 19, 1964 which requires divestiture of the NEES gas properties be set aside.

2. That, in the alternative, the Commission be ordered to dismiss the proceedings against petitioners instituted under Section 11(b)(1) of the Act insofar as they relate to divestiture of the NEES gas properties.

3. That, in the alternative, the case be remanded to the Commission for further proceedings under appropriate instructions from the Court.

4. For such other and further relief as may be just and proper.

By their attorneys,

JOHN R. QUARLES

RICHARD W. SOUTHGATE

JOHN J. GLESSNER, III

50 Federal Street

Boston, Massachusetts

RICHARD B. DUNN

441 Stuart Street

Boston, Massachusetts

Attorneys for the Petitioners.

Of Counsel:

ROPES & GRAY

50 Federal Street

Boston, Massachusetts

STIPULATION AS TO RECORD
TO BE PRINTED

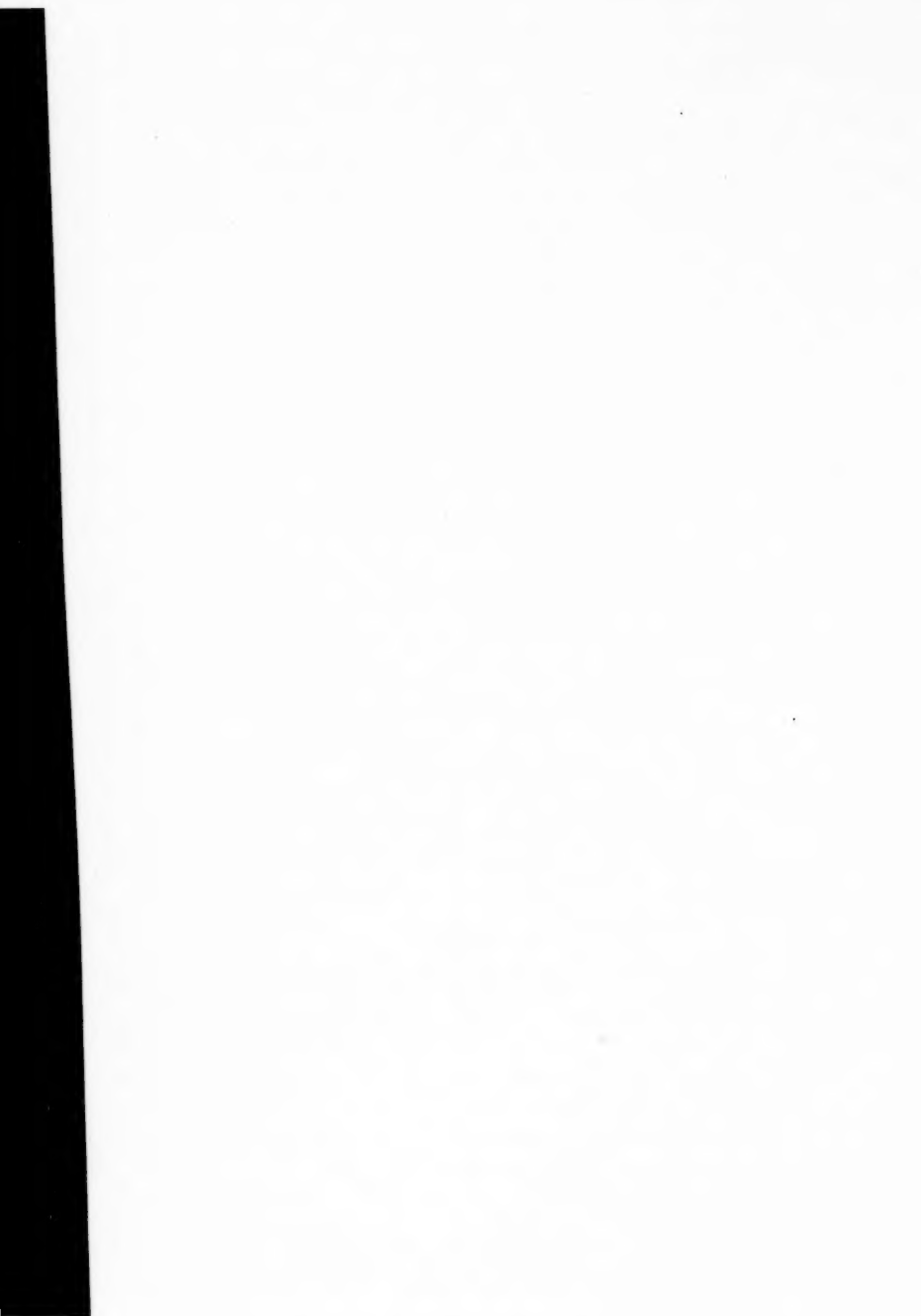
New England Electric System et al, the Petitioners, and Securities and Exchange Commission, the Respondent, being all of the parties in the above-captioned case, hereby stipulate and agree as follows:

1. The parts of the record referred to in the CERTIFICATE LISTING AND DESCRIBING RECORD IN PROCEEDINGS BEFORE SECURITIES AND EXCHANGE COMMISSION dated June 1964 and filed herein by the Respondent, which are to be printed in the appendix to the Petitioners' brief, pursuant to Rule 23, are as follows:
 - (a) Relevant docket entries below.
 - (b) The documents in the nature of pleadings, findings and opinions and orders of the Commission listed in said Certificate under document numbers 158, 159, 163 (Motion only), 165, 166, 167 (Notice of Appearance and Answer only), 204, 205 (Application only) and 208.
 - (c) The transcript of hearings before the Hearing Examiners on May 18, 19, 20, 23 and 24, 1960 and on April 5, 6, 7, 10 and 24, and May 17, 1961, described under document number 1, being transcript page 593 through page 1619-745 covering, among other things, all hearings pertaining to the segregation of the gas utility companies from the NEES System. (The earlier hearings related exclusively to the electric utility operations and related matters.)
 - (d) The Petitioners' exhibits listed under document numbers 6, 70 through 81, 83 through 92, 94, 103 through 107, 109 through 117, 127 through 139, and 141 through 144.
 - (e) All of the Division's exhibits pertaining to the segregation of the gas utility companies, being those listed under document numbers 147 through 157.
2. The parts of the record specified above constitute all of the record relevant to the issues involved in this proceeding and are adequate for the purpose. If, however, any procedural question should arise, any

of the parties may refer to any part of the record not so printed; and if in the preparation of briefs and argument any of the parties should find it appropriate to refer to any part of the record not so printed, it may print such part in a supplemental appendix to its brief.

- (s) JOHN R. QUARLES
Attorney for Petitioners,
New England Electric System et al.
- (s) EDWARD P. DELANEY
Attorney for Respondent,
Securities and Exchange Commission

Dated: July 13, 1964.



No. 6332.

**United States Court of Appeals
For the First Circuit**

**NEW ENGLAND ELECTRIC
SYSTEM ET AL.,**

PETITIONERS,

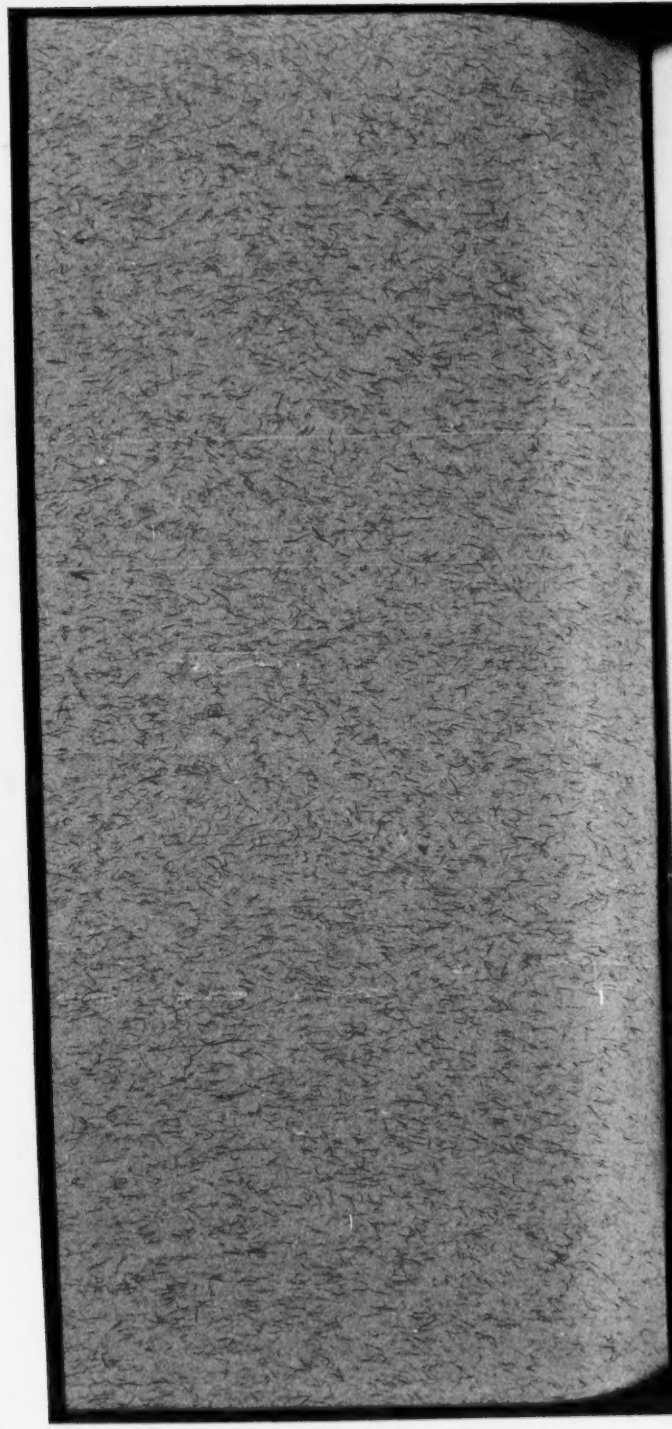
v.

**SECURITIES AND
EXCHANGE COMMISSION,**

RESPONDENT.

**RECORD APPENDIX
TO
BRIEF FOR PETITIONERS**

**VOLUME III
Exhibits
(Pages 1297 - 1454)**



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RESPONDENTS' EXHIBIT NO. 3

NEW ENGLAND
ELECTRIC SYSTEM

ELECTRIC
PROPERTIES AND SERVICE AREAS
OF SUBSIDIARIES OF
NEW ENGLAND ELECTRIC SYSTEM

□ HYDRO-ELECTRIC PLANT

■ FUEL - ELECTRIC PLANT

◻ HYDRO AND FUEL - ELECTRIC PLANT

— LINE - 230,000 VOLTS

— LINE - 69,000 - 115,000 VOLTS

— LINE - UNDER 69,000 VOLTS

▲ SUBSTATION

○ STORAGE DAM

▨ SERVED WITH ELECTRICITY DIRECTLY

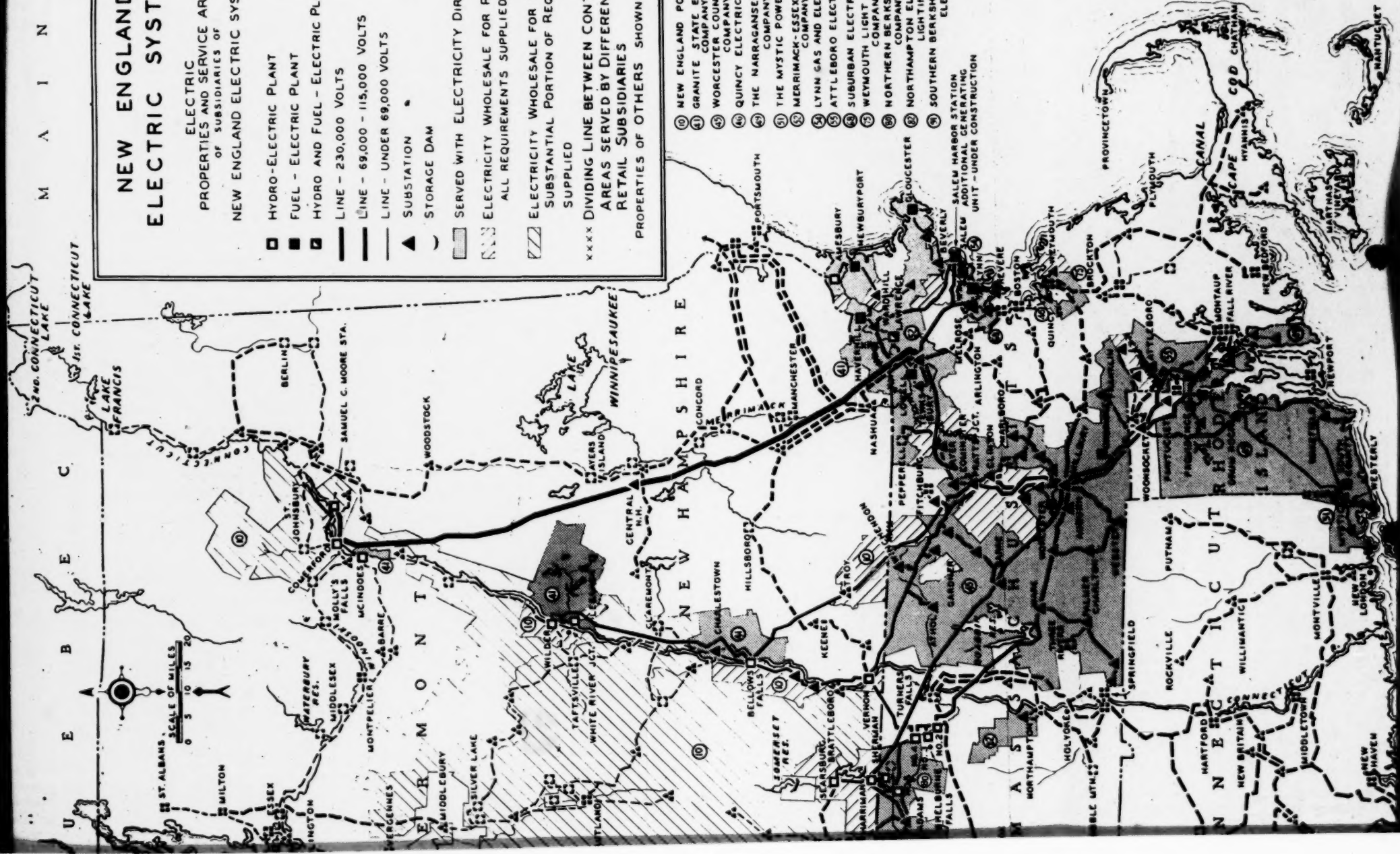
▨ ELECTRICITY WHOLESALE FOR RESALE -
ALL REQUIREMENTS SUPPLIED

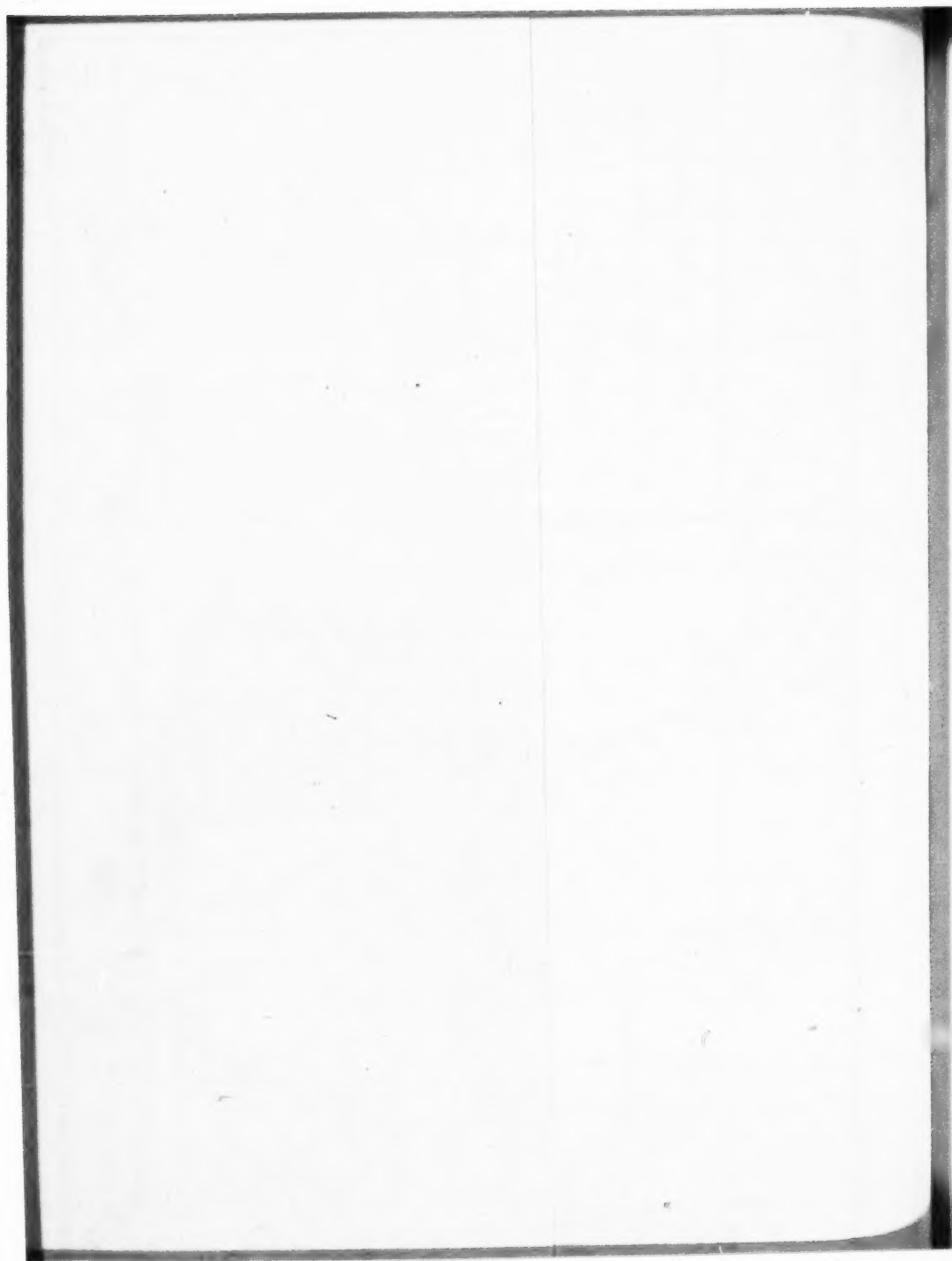
▨ ELECTRICITY WHOLESALE FOR RESALE -
SUBSTANTIAL PORTION OF REQUIREMENTS
SUPPLIED

XXXX DIVIDING LINE BETWEEN CONTIGUOUS
AREAS SERVED BY DIFFERENT N.E.E.S.
RETAIL SUBSIDIARIES
PROPERTIES OF OTHERS SHOWN BROKEN

- ① NEW ENGLAND POWER COMPANY
② GRANITE STATE ELECTRIC COMPANY
③ WORCESTER COUNTY ELECTRIC COMPANY
④ QUINCY ELECTRIC COMPANY
⑤ THE NARRAGANSETT ELECTRIC COMPANY
⑥ THE MYSTIC POWER COMPANY
⑦ MERRIMACK-ESSEX ELECTRIC COMPANY
⑧ LYNN GAS AND ELECTRIC COMPANY
⑨ ATTLEBORO ELECTRIC COMPANY
⑩ SUBURBAN ELECTRIC COMPANY
⑪ WEYMOUTH LIGHT AND POWER COMPANY
⑫ NORTHERN BERKSHIRE ELECTRIC COMPANY
⑬ NORTHAMPTON ELECTRIC LIGHTING COMPANY
⑭ SOUTHERN BERKSHIRE POWER & ELECTRIC COMPANY

SALEM HARBOR STATION
ADDITIONAL GENERATING
UNIT - UNDER CONSTRUCTION





RESPONDENTS' EXHIBIT NO. 50

SUBSIDIARIES OF
NEW ENGLAND ELECTRIC SYSTEM
AT APRIL 1, 1960

STRAIGHT ELECTRIC COMPANIES	COMMON STOCK OWNERSHIP
Attleboro Electric Company	100.00%
Granite State Electric Company	100.00
Lynn Electric Company	93.76
Merrimack-Essex Electric Company	100.00
The Mystic Power Company	100.00
The Narragansett Electric Company	100.00
New England Power Company (a)	100.00
Northampton Electric Lighting Company	100.00
Northern Berkshire Electric Company	100.00
Quincy Electric Company	100.00
Southern Berkshire Power & Electric Company	100.00
Suburban Electric Company	100.00
Weymouth Light and Power Company	100.00
Worcester County Electric Company	100.00
STRAIGHT GAS COMPANIES	
Central Massachusetts Gas Company	100.00
Lawrence Gas Company	90.43
Lynn Gas Company	93.76
Mystic Valley Gas Company	99.41
North Shore Gas Company	97.52
Northampton Gas Light Company	100.00
Norwood Gas Company	99.38
Wachusett Gas Company	100.00

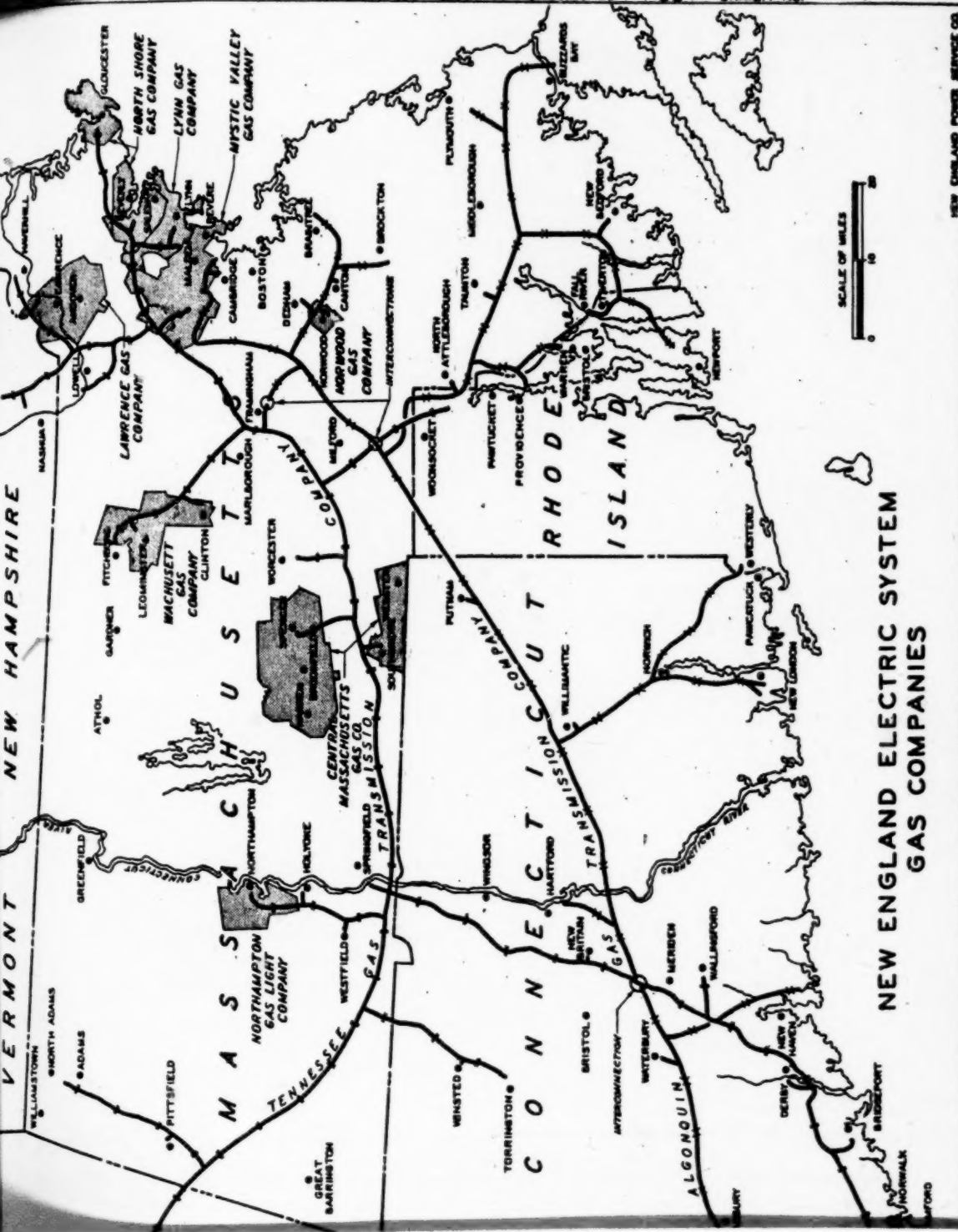
1300

SERVICE COMPANY

New England Power Service Company 100.00

- (a) New England Power Company owns 30% of the common stock of Yankee Atomic Electric Company.

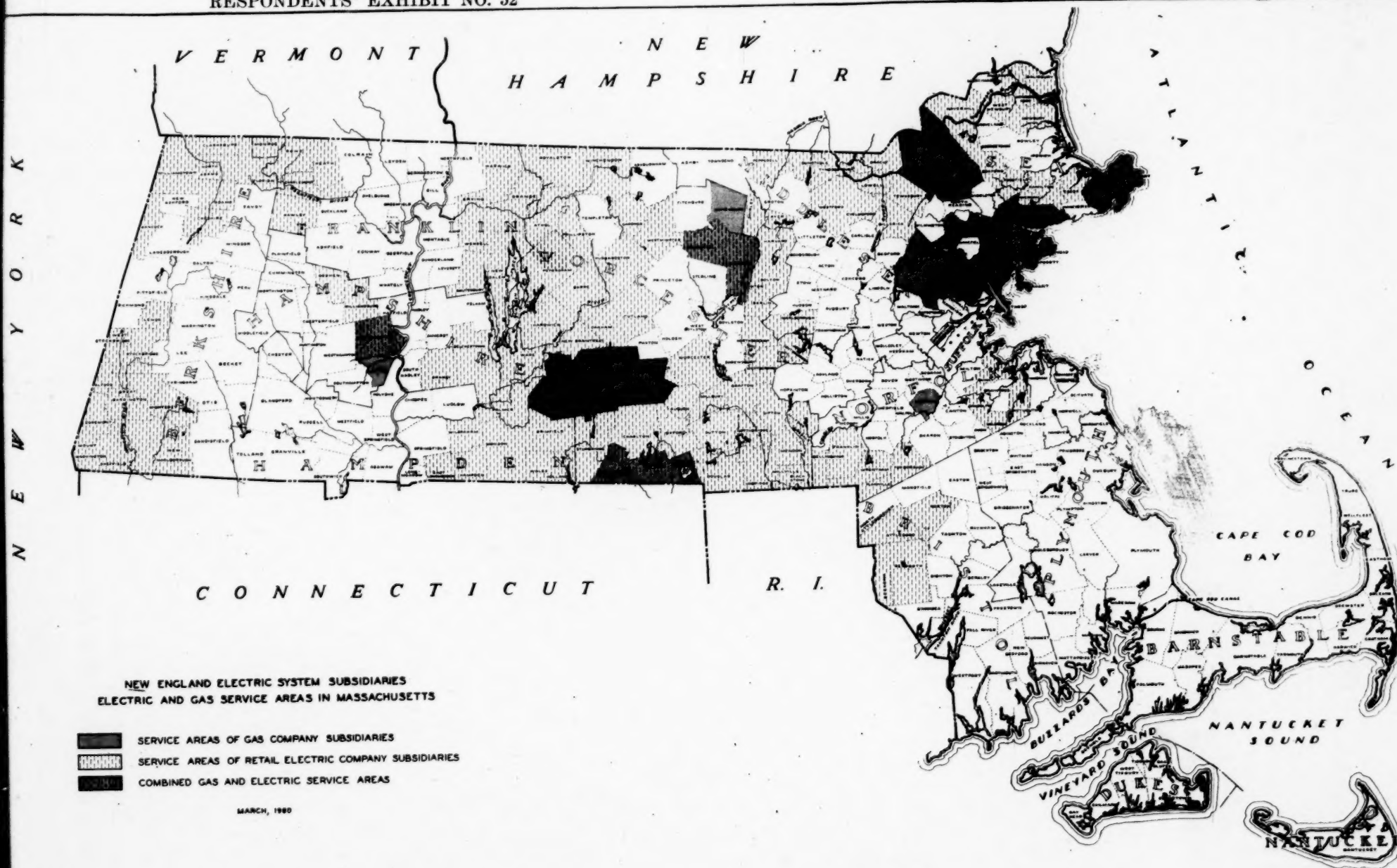
VERMONT NEW HAMPSHIRE

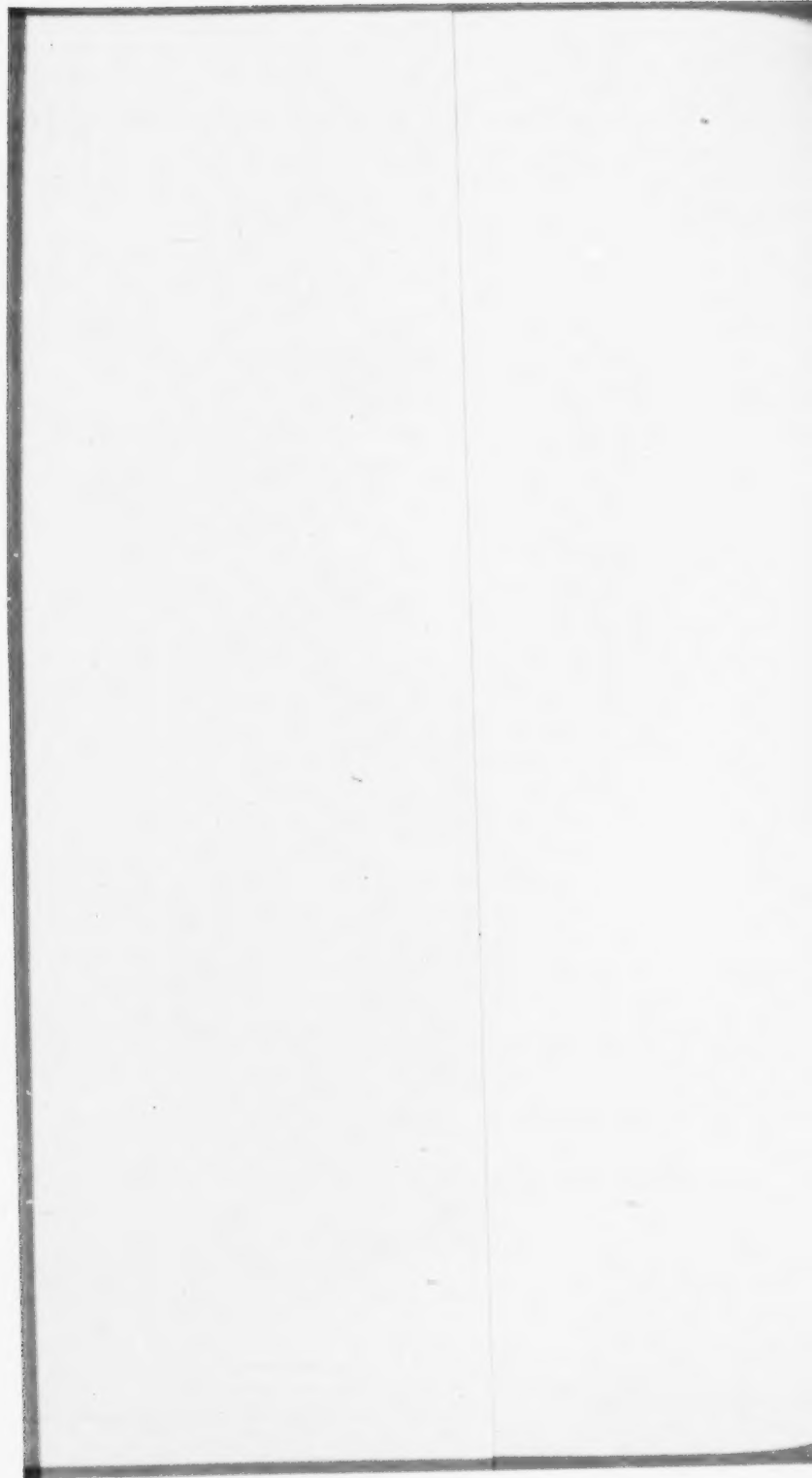


SCALE OF MILES
0 10 25

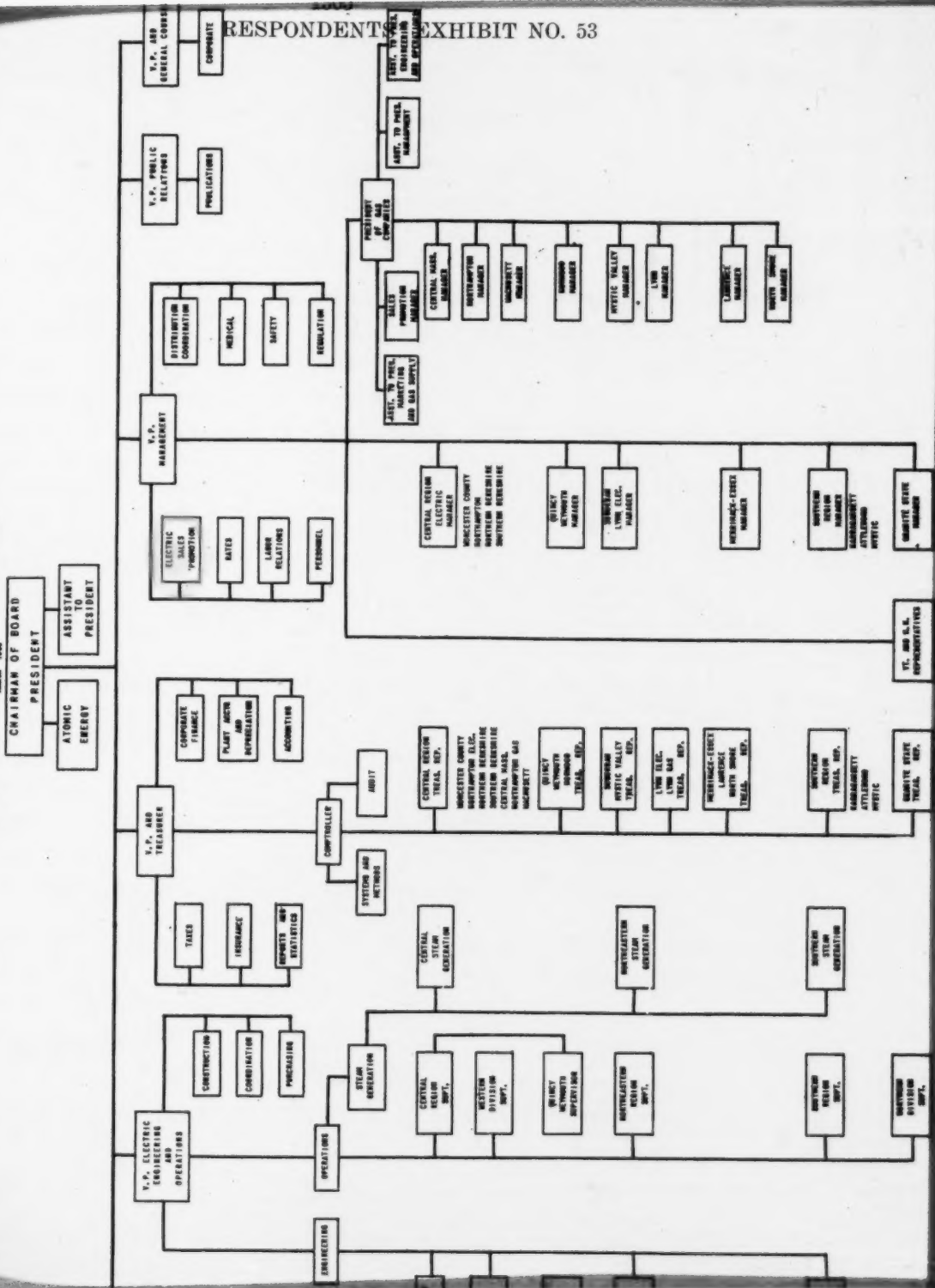
NEW ENGLAND ELECTRIC SYSTEM
GAS COMPANIES

NEW ENGLAND POWER SERVICE CO.





1981 1982





RESPONDENTS' EXHIBIT NO. 54

Res. Exhibit No. 54

NEW ENGLAND ELECTRIC SYSTEM AND NEW ENGLAND POWER SERVICE COMPANY OFFICERS AND DIRECTORS AT APRIL 1, 1960

OFFICERS

Chairman of Board

President

Vice President and Treasurer

Vice President and General Counsel

Vice Presidents

NEW ENGLAND ELECTRIC SYSTEM

Irwin L. Moore

William Webster

Harry Hanson

Leeds A. Wheeler

John I. Ahern
Robert F. Krause

NEW ENGLAND POWER SERVICE COMPANY

Irwin L. Moore

William Webster

Harry Hanson

Leeds A. Wheeler

John I. Ahern
R. Leigh FitzGerald
Thomas J. Flanagan
Chandler W. Jones
Robert F. Krause
Howard G. Lasselle
Claude D. Lawrence
Elmer H. Lother
Walter P. O'Neil
Gustave A. Schoenbacher
John E. Teagan
Edward F. Ziegler

Assistant Vice Presidents

Albert Calvert
John J. Foley
Clifford Hartley

Assistant Treasurers

Albert E. Westwood

Howard E. Needham
Fritz A. Ohrn
Albert E. Westwood

Secretary

R. Leigh FitzGerald

Clerk and Secretary

Richard B. Dunn

Assistant Secretaries

Joseph X. Corbett
Albert E. Westwood

John E. Teagan

Assistant Clerk

Joseph X. Corbett

Comptroller

Elmer H. Lother

DIRECTORS - EMPLOYEES

Carl S. Herrmann
Irwin L. Moore
William Webster

John I. Ahern
Harry Hanson
Chandler W. Jones
Robert F. Krause
Irwin L. Moore
William Webster
Leeds A. Wheeler

DIRECTORS - OTHER

George F. Bennett
Howard W. Cole
Charles A. Coolidge
Deane C. Davis
Paris Fletcher
Henry J. McCarthy
John H. McMahon
Robert H. Montgomery

None

NEW ENGLAND ELECTRIC SYSTEM
OFFICERS AND DIRECTORS OF GAS SUBSIDIARIES
AT APRIL 1, 1960

	<u>President</u> <u>Treasurer</u>	<u>Vice</u> <u>Presidents</u>	<u>Directors</u> <u>Employees</u>	<u>Other</u>
CENTRAL MASS. GAS CO.	Dalbeck Hanson Cutcliffe(1)	Langan	Dalbeck Langan B. Smith*	
NORTHAMPTON GAS LIGHT CO.	Dalbeck Hanson Cutcliffe(1)	Schofield, Jr.	Cutcliffe Dalbeck Schofield, Jr. B. Smith*	E. L. Arnold C. N. Deane J. H. Finley
WACHUSETT GAS CO.	Dalbeck Hanson Cutcliffe(1)	Magnitzky	Dalbeck Magnitzky B. Smith*	
NORWOOD GAS CO.	Dalbeck Hanson Kenefick(1)	Tyler	Dalbeck Kenefick Rodgers* B. Smith* Tyler	
MYSTIC VALLEY GAS CO.	Dalbeck Hanson Otten(1)	Bryant Murray	Bryant Dalbeck Kennedy Murray Otten	R. Johnson H. C. O'Brien A. Young
LYNN GAS CO.	Dalbeck Devitt	Fite, Jr.	Dalbeck Devitt Fite, Jr. Kennedy Murray	
LAWRENCE GAS CO.	Dalbeck Hanson Macaulay(1)	Maguire	Culver* Dalbeck Macaulay Maguire	
NORTH SHORE GAS CO.	Dalbeck Hanson Macaulay(1)	Rainville, Jr.	Dalbeck Macaulay Macaulay Rainville, Jr.	F. E. Brown R. K. Paine C. C. Paine

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P.E.S. Exhibit No. 22

NEW ENGLAND ELECTRIC SYSTEM
OFFICERS AND DIRECTORS OF ELECTRIC SUBSIDIARIES
AT APRIL 1, 1960

	President Treasurer	Vice Presidents		Employees of System Subsidiaries		Directors	
							Other
NEW ENGLAND POWER CO.	Herrmann (Chrm.) Moore Hanson	Barstow Brandt Coe Crabtree	Jones Joslin Nelson Rouser	Allen Barstow Brandt Crabtree Herrmann	Jones Moore Nelson Pope Webster	R. E. Farwell P. H. Page H. C. Rice	
ALTA COUNTY ELECTRIC CO.	Smith Hanson Cutcliffe (1)	Butler Secord Costello (2)	Kennedy (2) Leach (2) Van Rye (2)	Herrmann Moore Secord Smith		B. H. Bristol C. R. Brownell C. Bullock C. T. Delay R. H. Greenwood M. C. Jaquith	O. J. Laliberte W. A. Loughlin M. A. Moore P. R. O'Connell A. W. Rice
ALTON ELECTRIC LIGHTING CO.	Smith Hanson Cutcliffe (1)	Butler Fish		Butler Cutcliffe	Fish Smith	E. L. Arnold C. H. DeRose	J. H. Finn
ALTON WAREHOUSING ELECTRIC CO.	Pierce Hanson Cutcliffe (1)	Ahern Butler Smith		Butler Cutcliffe Marchant Meehan	New 116 O'Connor Pierce Smith	E. H. Arnold H. B. Clark M. J. Guild W. A. O'Hearn	
ALTON POWER & ELEC. CO.	Smith Hanson Cutcliffe (1)	Butler Nichols		Ahern Butler Cutcliffe	Nichols Smith		
ALTON ELECTRIC CO.	Parsons Hanson Kenafick (1)	Flynt		Donsila Flynt Parsons	Perry Walsh	J. W. Kapples W. J. Martin	
ALTON LIGHT AND POWER CO.	Perry (Chrm.) Parsons Hanson Kenafick (1)	Flynt		Coleman Flynt Leary	Parsons Perry Walsh	O. L. Barnes A. Vinal M. E. Young	
ALTON ELECTRIC CO.	Ayer Hanson Ottan (1)	Pulsifer		Adams Ayer Chase	Moore Ottan Pulsifer	O. T. Bargestrom I. S. Hall R. C. Tenney	
ALTON ELECTRIC CO.	Ayer Devitt	FitzGerald		Ayer Coleman Cooke	Kelley	T. D. Chatfield M. P. Clough, Jr. H. L. Muxtable	T. W. Rogers C. F. Smith, Jr.
ALTON-ESSEX ELECTRIC CO.	Bower Hanson Macaulay (1)	Casay Mickey Holcomb	Hunt Liddy Pike, Jr.	Bower Casay Mickey Holcomb	Liddy Wickerson Pike, Jr.	H. W. Bourgeois F. E. Brophy J. P. Donahue I. S. Hall R. W. Knight W. W. Korth	W. J. MacInnes R. K. Patch C. C. Pope C. M. Runels R. C. Tenny
ALTON ELECTRIC CO., THE	Twohey Ringler	Cabot Clarke Kelley		Cabot Krauss Twohey Webster		T. F. Black, Jr. Z. R. Elias W. T. Brightman, Jr. M. O. Chase, Jr. R. J. Goodnow	E. A. Kingman M. D. MacLeod J. W. McCormick F. A. Miranda
ALTON ELECTRIC CO.	Twohey Hanson Ringler (1)	Fisher		Allen Cunning Fisher	Ringler Twohey	V. R. Olencross F. V. Murphy, Jr.	L. B. Smith F. L. Wetherell
ALTON POWER CO., THE	Cabot Ringler	Twohey		Cabot Clarke Lasarek	Lloyd Twohey	J. H. Bindloss A. M. Gildersleeve	J. Rossie
ALTON STATE ELECTRIC CO.	Bailey Couser	FitzGerald		Bailey Couser FitzGerald		H. C. Edgerton F. F. Hough L. B. Prover M. D. Williams	

(1) Assistant Treasurer and Treasury Representative
(2) Assistant Vice President

* Retired

**COMPARATIVE DATA FOR 25 LARGE COMBINATION GAS AND ELECTRIC
UTILITIES AND SYSTEMS FOR THE YEAR 1958
ARRANGED IN ACCORDANCE WITH THEIR GAS OPERATING REVENUES**

	<u>GAS</u>			<u>ELECTRIC</u>			<u>Approximate Area Served</u>	
	Number of Customers Thousands	Operating Revenue Thousands	Number of Customers Thousands	Operating Revenue Thousands	ELECTRIC Thousands	GAS Thousands	<u>Square Miles</u>	
Pacific Gas and Electric Company	1,566	\$205,334	1,848	\$351,758	1,400	94,000	2,000	
Public Service Electric and Gas Co.	1,112	115,000	1,372	229,034	600	400	400	
Consolidated Edison Co. of New York	1,318	90,388	2,799	456,458	26,863	5,619	3,700	
Consumers Power Company	484	76,389	843	150,163	22,600	351	365	
Niagara Mohawk Power Corporation	350	57,250	1,087	206,613	2,636	NA		
The Cincinnati Gas and Electric Co.	299	52,545	409	75,298	2,283	12,000	1,144	
Baltimore Gas and Electric Co.	381	47,932	525	103,031	51,126	2,255	6,041	
Public Service Co. of Colorado	290	44,969	314	53,600	203,617	1,230	NA	
Northern Indiana Public Service Co.	270	38,516	254	53,600	15,000	874	750	
Philadelphia Electric Company	221	37,923	1,046	203,617	1,953	700		
The Dayton Power and Light Company	188	29,553	260	51,058	1,350	27,500	3,630	
Long Island Lighting Co.	311	29,335	540	90,305	1,052	2,590	40,000	
Illinois Power Company	186	23,674	348	67,671	4,585	661		
New England Gas and Electric Assoc.	171	23,358	148	25,895				
New England Electric System (1)	244	23,276	815	143,684				
Rochester Gas and Electric Co.	150	23,147	197	37,792				
Louisville Gas and Electric Co.	154	22,686	186	38,643				
Northern States Power Co.	155	21,680	677	131,344				
Iowa-Illinois Gas and Electric Co.	126	21,077	109	22,557				
Middle South Utilities, Incorp.	258	19,965	874	155,069				
New York State Electric and Gas Corp.	99	19,636	451	77,690				
Kansas Power and Light Co.	94	17,796	179	32,982				
San Diego Gas & Electric Co.	235	17,745	293	41,607				
Central Illinois Light Co.	99	14,670	119	23,159				
Arizona Public Service Co.	170	14,491	162	42,152				
			824	147,071				
(1) New England Electric System for 1959 (excluding gas operations of Narr. Elec.)	237	24,939						

NA - Not Available

Source of Data: Annual Reports, Annual Statistical Reports to E.E.I., Moody's Public Utility Manual.

NEW ENGLAND ELECTRIC SYSTEM

Adjustments to Statements of Income
of Eight Massachusetts Gas Companies Owned by NEESS
Caused by Severance of Gas Business

Twelve Months ended December 31, 1958

	Central Massachusetts Gas Company	Laurence Gas Company	Lynn Gas and Electric Company- Gas Department	Nyctic Valley Gas Company	North Shore Gas Company	Northampton Gas Light Company	Weymouth Gas Company	Wachusett Gas Company	Eight Massachusetts Gas Companies Total
Operating Revenues	(800)	(1,200)	2,100	(3,000)	(18,500)	(33,400)	-	-	(48,800)
Other	(800)	(1,200)	2,100	(3,000)	(18,500)	(33,400)	-	-	(48,800)
Total Operating Revenues	-	-	-	-	-	-	-	-	-
Operating Revenue Deductions	97,400	195,300	336,500	396,100	157,100	76,500	30,100	96,800	1,385,800
Depreciation	2,500	3,500	5,200	7,000	2,000	1,500	300	3,000	25,000
Taxes - Other than Federal Income	1,000	2,800	26,000	4,600	1,800	800	300	1,400	38,700
Total of above Operating Revenue Deductions	100,900	201,600	367,700	407,700	160,900	78,800	30,700	101,200	1,449,700
Net	(100,900)	(201,600)	(365,600)	(407,700)	(160,900)	(78,800)	(30,700)	(101,200)	(1,449,700)
Non-operating Income	(800)	(6,800)	(1,700)	1,000	4,800	(700)	1,000	2,700	(500)
Gross Income before Federal Income Tax	(101,700)	(208,400)	(367,300)	(406,700)	(156,100)	(79,500)	(29,700)	(98,500)	(1,495,500)
Federal Income Tax	(50,800)	(103,900)	(182,100)	(203,100)	(86,500)	(51,000)	(14,800)	(48,300)	(714,000)
On Separate Return Basis	61,800	20,400	26,100	66,500	21,500	2,100	-	3,200	202,600
Reduction due to Participation in NEESS Consolidated Return	13,000	(3,500)	(136,000)	(136,600)	(65,000)	(48,900)	(14,800)	(45,500)	(537,000)
Federal Income Tax	(115,500)	(126,100)	(213,000)	(273,100)	(109,600)	(56,000)	(15,100)	(52,000)	(957,500)
Gross Income before Interest and Dividends	-	-	-	-	-	-	-	-	-

() Indicates red figure

Rep. Ex. No. 7

NEW ENGLAND ELECTRIC SYSTEM

Adjustments to Statements of Income of Eight Massachusetts Gas Companies Owned by NEES Caused by Severance of Gas Business

Twelve Months ended December 31, 1959

	Central Massachusetts Gas Company	Lawrence Gas Company	Lynn Gas and Electric Company- Gas Department	Weymouth Valley Gas Company	North Shore Gas Company	Northampton Gas Light Company	Marwood Gas Company	Massachusetts Gas Company	Eight Massachusetts Gas Company Total
Operating Revenues									
Sales of Gas	(800)	(1,200)	2,100	(1,000)	(18,500)	(23,400)	-	-	(44,800)
Other	(800)	(1,200)	2,100	(1,000)	(18,500)	(23,400)	-	-	(44,800)
Total Operating Revenues									
Operating Revenue Deductions									
Depreciation	201,600	3,500	350,900	413,800	164,100	79,300	31,500	102,100	1,445,100
Taxes - Other than Federal Income	2,500	2,900	5,200	7,000	2,000	1,500	500	3,000	25,200
Total of above Operating Revenue Deductions	204,100	6,400	356,100	420,800	166,100	80,800	32,000	105,100	1,509,800
Net	(106,000)	(209,400)	(340,200)	(429,600)	(186,500)	(105,100)	(32,300)	(106,600)	(1,593,700)
Nonoperating Income	(800)	(16,800)	(1,800)	3,000	5,100	(700)	1,000	(2,700)	(9,800)
Gross Income before Federal Income Tax	(106,800)	(226,200)	(342,000)	(426,600)	(181,400)	(105,800)	(31,300)	(109,300)	(1,555,100)
Federal Income Tax	(52,900)	(107,200)	(189,300)	(211,900)	(89,900)	(52,400)	(15,500)	(51,500)	(770,600)
On Separate Return Basis	7,200	24,600	39,900	72,800	25,200	3,500	800	3,200	157,700
Reduction due to Participation in NEES Consolidated Return	(45,200)	(82,600)	(149,400)	(139,100)	(64,700)	(48,900)	(14,700)	(48,300)	(637,900)
Federal Income Tax	(61,600)	(165,200)	(228,800)	(268,800)	(129,400)	(97,600)	(29,400)	(106,600)	(942,100)
Gross Income before Interest and Dividends									

() Indicates red figure

NEW ENGLAND ELECTRIC SYSTEM

Adjustments to Statements of Income
of Power and Electric Companies Owned by N.E.E.S.
Caused by Sale of the Manufacturing Gas Business

Twelve Months Ended December 31, 1958

	Lynn Gas Company - Electric Department	Merrimack- Salem Electric Company	Northampton Electric Lighting Company	Suburban Electric Company	Worcester County Electric Company	Attleboro Electric Company	Granite State Electric Company	Weymouth Electric Power Company, The	Harrington Electric Company, The	New England Power Company	Middlesex Electric Company	Quincy Electric Company	Southern Power & Electric Company	Weymouth Light and Power Company	Fourteen Electric Company Total
Operating Revenues	\$ (2,100)	\$ (39,200)	\$ -	\$ (61,700)	\$ (22,000)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (124,000)
Sales of Electric Energy	(2,100)	(39,200)	-	(61,700)	(22,000)	-	-	-	-	-	-	-	-	-	(124,000)
Other	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Operating Revenues	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Operating Revenues Deductions															
Operating Expenses	117,500	119,500	34,900	221,500	70,600	1,600	1,000	600	15,600	27,600	4,200	11,800	2,100	1,900	663,100
Depreciation	2,300	1,500	1,000	2,500	-	-	-	-	-	-	-	-	-	-	7,300
Taxes - Other than Federal Income	(11,100)	3,600	800	2,100	(200)	-	-	-	-	-	-	-	-	-	(7,600)
Total of Above Operating Revenues Deductions	108,700	124,600	36,700	226,100	70,400	1,600	1,000	600	15,600	27,600	4,200	11,800	2,100	1,900	663,300
Net Operating Income	(110,700)	(160,600)	(36,700)	(287,600)	(92,400)	(1,600)	(1,000)	(600)	(15,600)	(27,600)	(4,200)	(11,800)	(2,100)	(1,900)	(787,300)
Operating Income before Federal Income Tax	(110,700)	(160,600)	(36,700)	(287,600)	(92,400)	(1,600)	(1,000)	(600)	(15,600)	(27,600)	(4,200)	(11,800)	(2,100)	(1,900)	(787,300)
Federal Income Tax	(175,000)	(46,300)	(18,900)	(97,000)	(87,000)	(2,600)	(1,000)	(2,600)	(6,000)	(13,400)	(4,200)	(11,800)	(4,000)	(1,900)	(264,500)
Gross Income before Interest and Dividends	(56,100)	(76,200)	(20,600)	(153,400)	(13,400)	4,000	1,000	1,400	51,400	32,100	100	(5,000)	(3,600)	1,000	(122,800)

1) Indicates red figure

NEW ENGLAND ELECTRIC SYSTEM

Adjustments to Statements of Income
of Fourteen Electric Companies Owned by N.E.E.S.
Caused by Services of the Representatives of the Nations

Twelve Months Ended December 31, 1922

	Ignace Gas and Electric Company	Marion- ville Electric Company	Northampton Electric Company	Schenectady Electric Company	Westchester County Electric Company	Attitash Electric Company	Grand Staircase Electric Company	Myrtle Electric Company	Hamamaghat Electric Company	New England Power Company	Quincy Electric Company	Southern New York Electric Company	Westchester Light and Power Company	Fourteen Electric Companies Total
Operating Revenues														
Sales of Electric Energy	(2,320)	(38,200)	-	(51,700)	(22,000)	-	-	-	-	-	-	-	-	(125,220)
Other	(2,320)	(38,200)	-	(51,700)	(22,000)	-	-	-	-	-	-	-	-	(125,220)
Total Operating Revenues														
Operating Expenses														
Operating Expenses	357,320	324,700	35,900	229,800	74,500	3,600	3,000	600	18,600	27,600	11,800	2,100	1,900	680,100
Depreciation	2,300	4,500	1,400	2,500	(200)	-	-	-	-	-	-	-	-	7,600
Taxes - Other than Federal Income	(12,000)	3,200	1,400	2,100	(200)	-	-	-	-	-	-	-	-	(68,300)
Total of above Operating Expenses	347,620	331,900	38,700	234,400	74,300	3,600	3,000	600	18,600	27,600	11,800	2,100	1,900	670,400
Income before Federal Income Tax	(146,300)	(355,900)	(3,800)	(4,600)	(3,800)	(600)	(600)	(600)	(18,600)	(4,000)	(12,000)	(2,000)	(1,000)	(1,000)
Income before Federal Income Tax	(146,300)	(355,900)	(3,800)	(4,600)	(3,800)	(600)	(600)	(600)	(18,600)	(4,000)	(12,000)	(2,000)	(1,000)	(1,000)
Federal Income Tax	(17,200)	(205,800)	(20,700)	(20,700)	(80,700)	(5,000)	(4,500)	(2,400)	(9,600)	(96,600)	(34,800)	(5,000)	(3,000)	(635,600)
Gross Income before Interest and Dividends	(70,200)	(561,700)	(24,500)	(125,300)	(84,500)	(1,000)	(1,000)	(3,000)	(28,200)	(100,600)	(46,800)	(7,000)	(4,000)	(725,600)

(1) Indicated red figures

Company	Take Point	Supplier	Authorized Quantity MCF			Contract Termination Date
			General Service	Interim Service	Winter Service	Emergency Service
Central Mass. Gas. Co.	Southbridge	TGT	2,900			Dec. 5, 1971
	Spencer	TGT	1,826	596		Oct. 31, 1960
		TGT				Dec. 5, 1971
Lawrence Gas Co.	Methuen	TGT	8,100			March 2, 1972
		TGT		2,496		Oct. 31, 1960
Lyman Gas Co.	Lynn	TGT	7,296	1,869		Nov. 23, 1971
		TGT				Oct. 31, 1960
Metropolitan Valley Gas Co.	Arlington) Reading) Revere) Lexington)	TGT	36,900	6,012		April 16, 1972
		TGT				Oct. 31, 1960
		AGT				Oct. 31, 1973
North Shore Gas Co.	Danvers	TGT	10,800	1,187		March 24, 1972
		TGT				Oct. 31, 1960
	Gloucester	TGT	1,800	483		Sept. 7, 1972
		TGT				Oct. 31, 1960
Northampton Gas Lt. Co.	Northampton	TGT	2,300	576		Dec. 13, 1971
		TGT				Oct. 31, 1960
Norwood Gas Co.	Norwood	AGT	1,300		1,011*	Sept. 1, 1978
		AGT				Nov. 16, 1978
Schubert Gas Co.	Leominster	TGT	2,800	462		July 27, 1972
		TGT				Oct. 31, 1960
	Clinton	TGT	1,300			July 29, 1972
		TGT				
		AGT	76,022	13,681	1,011	
			1,300			
			77,322	13,681	1,011	
Total						
GRAND TOTAL						

* Winter Service Application of Algonquin Gas Transmission Company, Docket G-18970, is subject to hearing and order of Federal Power Commission.

24,000

24,000

NEW ENGLAND ELECTRIC SYSTEM

GAS SUBSIDIARIES

GAS PRODUCTION PLANTS

<u>Company and Location</u>	<u>Type</u>	<u>Daily Plant Capacity-MCF</u>
<u>Central Mass. Gas Co.</u>		
Southbridge, Mass.	L.P. - Air gas	1,500
<u>Lawrence Gas Co.</u>		
Lawrence, Mass.	Oil gas	2,200
Lawrence, Mass.	L.P. - Air gas	2,250
		<u>4,450</u>
<u>Lynn Gas Co.</u>		
Lynn, Mass.	Oil gas	7,800
<u>Mystic Valley Gas Co.</u>		
Malden, Mass.	Oil gas	11,800
Malden, Mass.	L.P. - Air gas	6,750
Reading, Mass.	L.P. - Air gas	4,500
		<u>23,050</u>
<u>North Shore Gas Co.</u>		
Salem, Mass.	Oil gas	5,650
Salem, Mass.	L.P. - Air gas	1,500
Danvers, Mass.	L.P. - Air gas	2,250
Gloucester, Mass.	L.P. - Air gas	1,500
		<u>10,900</u>
<u>Northampton Gas Light Co.</u>		
Northampton, Mass.	Oil gas	1,100
<u>Norwood Gas Co.</u>		
Norwood, Mass.	L.P. - Air gas	1,500
<u>Wachusett Gas Co.</u>		
Leominster, Mass.	L.P. - Air gas	1,500
GRAND TOTAL	Oil gas	28,550
	L.P. - Air gas	23,250
		<u>51,800</u>

NOTE: Plant capacity estimates are on basis of using 1/3 of storage per day.

GAS PURCHASED AND PRODUCED - 1959

	<u>MCF PURCHASED</u>			<u>MCF PRODUCED</u>			<u>GRAND TOTAL</u>
	<u>General</u>	<u>Peak Service</u>	<u>Total</u>	<u>Oil Gas</u>	<u>LP Air</u>	<u>Total</u>	
Mystic Valley	4,984,462	227,836	5,212,298	13,409	5,361	18,770	5,231,068
North Shore	1,669,787	66,146	1,735,933	5,236	4,950	10,186	1,746,119
Lynn	2,313,766	96,836	2,410,602	35,962		35,962	2,446,564
Lawrence	2,028,233	122,067	2,150,300	7,558	3,880	11,438	2,161,738
Central Mass.	767,620	20,952	788,572		1,723	1,723	790,295
Wachusett	395,447	18,158	413,605		2,406	2,406	416,011
Northampton	457,426	37,980	495,406	2,891		2,891	498,297
Norwood	262,274	4,333	266,607		3,209	3,209	269,816
Total	12,879,015	594,308	13,473,323	65,056	21,529	86,585	13,559,908

RESPONDENTS' EXHIBIT NO. 65

DESCRIPTION OF PRODUCTION
AND
DISTRIBUTION FACILITIES
OF
NEES SYSTEM GAS COMPANIES

CENTRAL MASSACHUSETTS GAS COMPANY

The Central Massachusetts Gas Company franchise area and gas properties are divided into two operating districts, each supplied separately from the Tennessee Gas Transmission Company's system and otherwise isolated from each other.

The main system, the Southbridge-Webster division, receives natural gas in Southbridge at Sandersdale at a point on the high pressure line connecting Southbridge with Webster. At this point, in addition to the take station, there is located a high pressure L.P. Air gas plant with a capacity of 100 MCF per hour or 2400 MCF per day of 1000 Btu equivalent gas at 75 psig, and 50,000 gallons of propane storage. During peak-shaving periods this plant normally produces L.P. Air gas which is mixed with the incoming natural gas and distributed directly through a high pressure line west to Southbridge and east to Webster for local distribution from those centers. Normal peak-shaving operation is limited to a 50% mixture of L.P. Air gas with natural gas by the interchangeability characteristics of the two gases. Full propane storage is equivalent to 4600 MCF of 1000 Btu equivalent gas. Under emergency conditions or complete failure of the natural gas supply, the L.P. Air gas plant plus the holders at Southbridge and Webster, could carry the entire load on all but four days of the winter of 1959-1960, and on those days, interruption of industrial customers and reducing temperature

settings of heating customers' thermostats would make it possible to carry the entire remaining load on all days.

There are no production facilities in Spencer and no connections between the two divisions. Accordingly, the Spencer Division area is entirely dependent on pipeline gas.

In the Webster-Southbridge division, the incoming natural gas flows in two directions to the holder station at Union Street, Webster, and the holder station at Wardwell Court, Southbridge. The high pressure feeder main connecting the two holder stations is composed of 4-inch, 6-inch and 8-inch diameter pipe. The gas which flows into Southbridge is reduced in pressure at the holder station and routed to the low pressure system. There is one high pressure feeder main. The gas which flows toward Webster supplies a high pressure distribution area in Dudley and the holder station in Webster. At the Webster holder station, the gas is reduced in pressure and routed into the holder from which it flows through a station governor into the low pressure network in Webster and part of Dudley. The low pressure systems of the Webster-Southbridge division operate at 6.0 inches water column.

In the Spencer division, the incoming natural gas flows from the receiving station through an 8 inch diameter high pressure feeder main which connects to the high pressure feeder mains supplying the holder station at Spencer and the high pressure distribution systems in the communities of Brookfield, East Brookfield, North Brookfield, West Brookfield, Leicester, Spencer and Warren. At the holder station in Spencer, the gas is reduced in pressure and routed to the intermediate pressure distribution network in Spencer. All of the customers in the Spencer division are served through house service pressure regulators from high or intermediate pressure mains.

The Central Massachusetts Gas Company has 13.6 miles of cast iron mains, 34.0 miles of welded steel mains and

93.7 miles of wrought iron or steel mains with screwed or mechanical joint connections. The total of 141.3 miles of mains include 70.6 miles of principal high pressure feeder mains which range in diameter from $\frac{3}{4}$ to 8 inches. 46 per cent of the mains are 4 inch or larger in diameter.

LAWRENCE GAS COMPANY

The production facilities of the Lawrence Gas Company are located off Marston Street, Lawrence, consisting of a high Btu oil gas plant, and a low pressure L.P. Air gas plant. The oil gas plant contains one production unit, two light oil generators, one 9 feet in diameter, one 8 feet in diameter with an 8 foot diameter superheater. This machine is capable of producing 110 MCFH of 1000 Btu equivalent gas or 2200 MCF per day. Fuel storage for oil gas production consists of 180,000 gallons, equivalent to about 12,000 MCF of 1000 Btu equivalent gas. The low pressure L.P. Air gas plant is a jet plant with a maximum production capacity of 200 MCFH of equivalent 1000 Btu gas or 4800 MCF per day. Fuel storage for L.P. Air gas production consists of 75,000 gallons of propane equivalent to 6900 MCF of 1000 Btu equivalent gas.

Oil gas and L.P. Air gas, as required, are produced and stored in a low pressure storage holder. From there they are pumped to higher pressures for mixing with natural gas for sendout to the medium pressure distribution system. Mixed gas also flows into the low pressure holders through a pressure regulator for plant distribution to the local area of Lawrence. The production plants are used primarily for peak-shaving and also they provide backup for the natural gas supply. When used for peak-shaving, oil gas cannot be used for more than 40% of the sendout, and L.P. Air gas is not used for more than 50%. When both oil gas and L.P. Air gas are used, the mixture is limited to 60% of the sendout.

Tennessee Gas Transmission Company delivers gas to the Lawrence Gas Company at a take point in Methuen, Massachusetts. From this point, part of the gas is delivered westerly to a pressure regulator station at Jackson and East Streets, Methuen, supplying the low pressure distribution system. The bulk of the gas purchased flows from Oak Street to the Marston Street plant in Lawrence, the main distribution center of the Company. From the main distribution center, low pressure and feeder mains extend into Lawrence, Methuen, Andover and North Andover.

Customers are served from low pressure mains operating at 6-inch water pressure and intermediate pressure mains operating at from 20-inch water pressure to 2 psig. About 2.5% of the customers are served through individual house pressure regulators. The Lawrence distribution system consists of approximately 253.5 miles of cast iron mains, 22.5 miles of welded steel mains, and 25.7 miles of wrought iron and steel mains with threaded or mechanical joints. Included in this mileage are the principal high pressure feeder mains which total about 14.5 miles ranging from 6 inches to 12 inches in diameter. Approximately 86% of the mains in the Lawrence distribution system are 4 inches or larger in diameter.

LYNN GAS COMPANY

The production plant of the Lynn Gas Company is located on the Lynnway in Lynn, and consists of three production units; one 12'6" and two 10'6" inverted "U" type high Btu oil gas sets. Only two of these sets can be operated simultaneously, the larger set with one of the smaller sets, due to the fact that the two smaller sets have a common air blower. This plant can produce a maximum of 390 MCFH of 1000 Btu equivalent gas or 7800 MCF per day. Fuel storage for oil gas production consists of 4,555,000 gallons of oil storage, which is equivalent to 304,000 MCF of 1000

Btu equivalent gas. This is adequate for about 39 days of capacity production. Lynn has excess oil storage capacity which could be beneficially used by the North Shore Gas Company and/or Mystic Valley Gas Company.

High Btu oil gas as produced is put into the 2000 MCF and 5000 MCF storage holders where it is mixed with natural gas in the holders. Peak-shaving is accomplished by delivery of this mixed gas directly to the local low pressure system or by supplying this mixed gas from these storage holders through gas compressors to the high pressure feeder main system.

Lynn Gas Company has no boiler plant of its own and purchases all of its steam requirements from the adjacent plant of the Lynn Electric Company.

Lynn purchases all of its natural gas requirements from the Tennessee Gas Transmission Company through the receiving station at Homesite Street, Lynn, Massachusetts. From this station the natural gas purchased is delivered to the distribution and control center located at the gas plant on the Lynnway through a primary 12 inch high pressure feeder main. At the Lynnway distribution center the incoming natural gas is delivered through a pressure regulator to the storage holders and thence through another pressure regulator to the local low pressure distribution center. Also at this distribution center, the incoming natural gas is routed to high pressure feeder mains which extend into Lynn, Swampscott, Marblehead, Saugus, Lynnfield and Nahant.

Customers are served generally from a low pressure distribution system in which the operating pressure is 6.0 inches water. The high pressure feeder main system operating at pressures of 20 to 45 psig supplies and reinforces the pressure in the low pressure system through pressure regulators connecting the two systems at necessary locations. About 7% of the customers are supplied directly

from the high pressure feeder system through house service pressure regulators.

The Lynn distribution system consists of 245 miles of cast iron main, 81 miles of welded steel main, and 42 miles of wrought iron or steel main with threaded or mechanical joints all ranging in diameter from 1 inch to 24 inches. Included in this mileage are the principal high pressure feeder mains which total about $31\frac{3}{4}$ miles and which range in diameter from 4 inches to 12 inches. Approximately 82% of the mains in Lynn's distribution system are 4 inch or larger in diameter.

MYSTIC VALLEY GAS COMPANY

The Mystic Valley Gas Company has three gas plants: a high Btu oil gas plant and a low pressure L.P. Air gas plant at Charles Street, Malden, and a high pressure L.P. Air gas plant at John Street, Reading. The Malden oil gas plant contains three production units, two $11\frac{1}{2}$ foot sets and one 11 foot set. These are all twin generator light gas oil sets. This plant can produce a maximum of 590 MCFH of 1000 Btu equivalent gas or 11,800 MCF per day. Fuel storage for oil gas production consists of 900,000 gallons of oil storage, which is equivalent to 60,000 MCF of 1000 Btu equivalent gas. The low pressure L.P. Air gas plant at Malden is a jet plant with a maximum production capacity of 420 MCFH of 1000 Btu equivalent gas or a daily capacity of 10,080 MCF. Fuel storage for L.P. Air production consists of 225,000 gallons of propane which is equivalent to 20,700 MCF of 1000 Btu equivalent gas.

Gas produced by both the oil gas plant and the L.P. Air gas plant at Malden is put into a 1000 MCF storage holder at the plant. From there it is compressed and delivered to the plant control center where it is mixed for peak-shaving purposes with high pressure natural gas from the Arlington receiving station before routing into the high pressure

distribution feeder main system and through a pressure regulator into the low pressure distribution network.

The high pressure L.P. Air gas plant at John Street, Reading, can produce a maximum of 420 MCFH of 1000 Btu equivalent gas at 50 psig or 10,080 MCF per day. Fuel storage for L.P. Air production consists of 150,000 gallons of propane which is equivalent to 13,800 MCF of 1000 Btu equivalent gas. This gas, as produced, can be mixed for peak-shaving purposes with high pressure natural gas from the Reading receiving station. The mixed gas is then delivered to the high pressure feeder main system; north to Reading and south to the main distribution system of the Mystic Valley Gas Company.

Under normal operating conditions, mixed produced gas and natural gas cannot be delivered to the Arlington area and can only be delivered to a very small part of the Revere area. Because of this situation, peak-shaving in the Mystic Valley Gas Company is limited to about 53% of its distribution area and load.

Mystic Valley purchases gas from Tennessee Gas Transmission Company at four receiving stations. These stations are located on the periphery of the distribution system at Washington Street, Arlington, at Wood Street, Lexington, at Lowell Street, Reading, and at Broadway, Malden. There are three major distribution centers or stations and two minor stations in the Mystic Valley Gas Company. The major centers are at Grove Street, Arlington, Railroad Avenue, Revere, and Charles Street, Malden. The two minor stations are at John Street, Reading, and Wood Street, Lexington. Normally gas flows from the Arlington station through a 16 inch high pressure primary feeder to a regulating and holder station at Arlington, at which point part of the gas is routed through secondary high pressure feeder mains to the communities of Arlington, Belmont, Burlington, Lexington, Winchester and Woburn. The remainder

of the gas from the Arlington station continues to flow through the 16 inch high pressure primary feeder until it reaches the Malden gas plant at which point the gas is routed through secondary high pressure feeder mains toward the communities of Medford, Malden, Everett, Revere, Melrose, Stoneham, Wakefield and Reading. At the Malden gas plant, peak-shaving is performed by adding propane-air and/or oil gas to the natural gas. During the summer months, gas flows from the Lexington station into the distribution system owned by the Air Force at Hanscom Air Base in Bedford. During the winter months the gas consumption at the air base is substantially reduced and, in order to maintain a favorable purchased gas load factor at each take point, the Mystic Valley Gas Company routes through an 8 inch high pressure primary feeder and several secondary high pressure feeders, a quantity of gas into the area normally supplied from the Arlington receiving station. The control of volume flow during the winter months from the Lexington station is accomplished by means of a remote control device which is monitored by personnel at the Malden control center.

Gas which is received at the Reading station travels through a 10 inch high pressure primary feeder to the L.P. Air gas plant and regulating station at Reading. From this point the gas is routed, through secondary high pressure feeder mains, toward the communities of Reading, Stoneham, Melrose, Wakefield, Malden and Revere. When required for peak-shaving, propane air gas is added to the natural gas at the Reading plant.

The receiving station located in Malden adjacent to the Revere boundary, delivers gas through a 12-inch primary high pressure feeder main and several secondary high pressure feeder mains. The gas flows into the communities of Revere and Winthrop partly by way of regulators con-

needed to the 12-inch primary feeder and partly by way of regulators located at the holder station at Revere.

Monitoring of gas pressure and flow conditions is performed by the telemetering of various information from selected locations. For example, the height of outlying holders in Arlington, Revere and Winchester can be determined by observation of telemetered information in the control center. The flow into the holders can be regulated by personnel at the Malden control center via remote control facilities.

The Mystic Valley Gas Company has approximately 79,300 customer services, some of which supply more than one customer through separate meters. There are approximately 5100 house service regulators in use to control the pressure delivered to appliances wherever the distribution main pressure is greater than normal low pressure. The pressure in the high pressure mains ranges from about 2 psig to about 90 psig depending on the time of year, the particular main considered and customer requirements. The high pressure mains range in diameter from $\frac{3}{4}$ inch to 20 inches. The low pressure system is supplied from holders and/or regulator stations which receive their supply from high pressure feeder mains. The low pressure system operates at an average pressure of approximately 6 inches water column. Low pressure mains range in diameter from 1 inch to 30 inches. In the Mystic Valley area there are approximately 710 miles of cast iron mains, 106 miles of welded steel mains and 100 miles of wrought iron or steel mains with the latter having other than welded joint construction.

NORTH SHORE GAS COMPANY

The production facilities of the North Shore Gas Company are a high Btu oil gas and a low pressure L.P. Air gas plant on Pierce Avenue, Salem, a high pressure L.P.

Air gas plant in Danvers and an L.P. Air gas plant on Emerson Avenue, Gloucester.

The Pierce Avenue plant in Salem contains two high Btu oil gas machines, 11 feet and 9 feet in diameter and can produce a maximum of 283 MCFH or 5650 MCF per day of 1000 Btu equivalent gas. Oil storage for high Btu oil gas production amounts to 230,000 gallons equivalent to 15,320 MCF of 1000 Btu equivalent gas or 2.71 days at the maximum production rate. Also located at the Pierce Avenue plant in Salem is a low pressure jet mixing type L.P. Air gas plant with 50,000 gallons of propane storage. This plant can produce a maximum of 216 MCF per hour of 1000 Btu equivalent gas and on the same basis can produce 5185 MCF of 1000 Btu equivalent gas per day. The propane storage is equivalent to 4600 MCF of 1000 Btu equivalent gas.

At the Pierce Avenue plant high Btu oil gas and/or L.P. Air gas is produced and delivered directly into the 500 MCF storage holder. Compressors take the gas from this storage holder and deliver it to a high pressure mixing house where it is mixed with natural gas for high pressure distribution. The mixed gas then goes out to the high pressure system or through a pressure regulator to the 2000 MCF holder for low pressure distribution. Mixed gas from the 2000 MCF holder is also delivered to the River Street holder station, Beverly, for low pressure distribution in the Beverly area.

The high pressure L.P. Air gas plant at Danvers can produce a maximum volume of 360 MCF per hour of 1000 Btu equivalent gas at 75 psig, and on the same basis can produce 8640 MCF of gas per day. The propane storage is equivalent to 6900 MCF of 1000 Btu equivalent gas. Under normal peak-shaving operation, L.P. Air gas is produced at this plant and mixed directly with natural gas being delivered by the Tennessee Gas Transmission Com-

pany, and sent out at high pressure on the main take lines delivering gas to the Beverly side of the distribution system and directly south to Peabody and the Salem distribution center at the Salem plant at Pierce Avenue.

Under emergency operation or the failure of gas supply from the pipeline, the Pierce Avenue plant would produce L.P. Air gas and oil gas and the Danvers L.P. Air gas plant would produce L.P. Air gas at high pressure. In this way, the entire load of this Division of the North Shore Gas Company could be produced. Under normal peak-shaving operations, the high Btu oil gas plant at Pierce Avenue is used. While 40% is considered to be a critical limit of produced gas in the sendout gas in this territory, there are five industrial plants manufacturing lamp bulbs or other similar products which have a very critical tolerance to mixed gas. Since high Btu oil gas has the least effect on industrial applications, it is given preference in peak-shaving.

In the Gloucester division of the North Shore Gas Company, Tennessee Gas Transmission Company delivers gas at a receiving station at Essex Avenue. From there it is delivered by a high pressure line to the main part of Gloucester across the Annisquam River. On the west side of the River there are only a few domestic and commercial customers and one large industrial. At the Emerson Avenue distribution center is a Hortonsphere high pressure gas holder with an effective capacity of 190 MCF. Also located here is a high pressure L.P. Air gas plant with a maximum capacity of 137 MCF per hour of 1000 Btu equivalent gas, or 3288 MCF of 1000 Btu equivalent gas per day. The L.P. storage at this plant consists of 50,000 gallons of propane equivalent to 4600 MCF of 1000 Btu equivalent gas.

Under emergency operation such as complete failure of pipeline gas the Emerson Avenue L.P. Air gas plant and the Hortonsphere could supply the entire requirements of

the Gloucester division. Under normal peak-shaving operation, the loads west of the Annisquam River cannot be supplied with manufactured gas. Natural gas from the pipeline and L.P. Air gas are mixed and distributed to the low pressure system through pressure regulators and to the intermediate pressure system for local distribution in Gloucester east of the River.

The North Shore Gas Company purchases all of its natural gas requirements from the Tennessee Gas Transmission Company through two receiving stations; one in the Gloucester division at Essex Avenue, Gloucester, and one in the Salem-Beverly division at Broad Street, Danvers. These two divisions of the North Shore Gas Company have completely separate distribution systems, with no interconnecting mains between divisions.

In the Gloucester division, the incoming natural gas is transported from the receiving station to the L.P. Air gas plant at Emerson Avenue, through an 8 inch diameter primary high pressure feeder main. The incoming gas pressure is reduced at this point and routed through high pressure feeder mains which extend into the communities of Gloucester and Rockport.

Most of the customers are served from a low pressure distribution system in which the operating pressure is 6.0 inches water column. The high and intermediate pressure feeder main system operating at pressures of from 1 psig to 50 psig reinforces the pressure in the low pressure system through pressure regulators connecting the two systems at necessary locations. About 15 per cent of the customers are supplied from the intermediate and high pressure system through house service pressure regulators.

In the Salem-Beverly division, the incoming gas is transported from the receiving station and L.P. Air gas plant at Broad Street, Danvers, to the Salem gas plant at Pierce Avenue, Salem, through a 12-inch diameter primary high

pressure feeder main; and to a connection in Danvers to the high pressure peripheral feeder system through a 12-inch diameter primary high pressure feeder main. At the Pierce Avenue plant, the gas is reduced in pressure and routed to the high pressure peripheral feeder to the holders in Salem and Beverly and to the low pressure systems in Salem, Peabody and Beverly.

The high pressure peripheral feeder forms a loop which extends from the holder station located at River Street, Beverly, through parts of Beverly, Danvers, Peabody and Salem, to the gas plant at Pierce Avenue, Salem. There are high pressure feeder branches from the loop main and connections where the low pressure system is reinforced through pressure regulators. About 4 per cent of the customers in the Salem-Peabody division are served through house service regulators from high pressure distribution mains. The remainder of the customers are supplied from the low pressure systems.

The North Shore Gas Company has approximately 347 miles of mains ranging from 1¼ inches to 16 inches in diameter, consisting of 247 miles of cast iron mains, 62 miles of welded steel mains and 38 miles of wrought iron or steel mains with screwed or mechanical joint connections. Included in this total mileage are the principal high pressure feeders which are about 58 miles in total length and which range from 2 inches to 12 inches in diameter. Approximately 85 per cent of the mains in the North Shore Gas Company's distribution system are 4 inches or larger in diameter.

NORTHAMPTON GAS LIGHT COMPANY

This company supplies gas to the City of Northampton and the Town of Easthampton. Natural gas is purchased from the Tennessee Gas Transmission Company at the Earl Street delivery point from which gas for Northampton

flows to the Crafts Avenue production plant to the West Street holder station, the distribution center for low pressure delivery. At the Crafts Avenue plant there is an oil gas plant containing one high Btu oil gas machine capable of producing 55 MCF per hour or 1100 MCF per day. Oil gas produced at the Crafts Avenue plant is mixed with natural gas and distributed by compressors to the intermediate pressure system extending north to Florence and Leeds and also is sent to the low pressure holder at West Street for low pressure distribution. Gas for Easthampton is transmitted at high pressure from the Earl Street gate station and cannot be peak shaved. Approximately 60% of the total Northampton Gas Light Company load can be peak shaved.

Northampton plans to install an L.P. Air gas plant at the Earl Street delivery point this year. Following that the oil gas plant at Crafts Avenue will be abandoned. This will make it possible to peak shave the entire Northampton system.

Gas for Easthampton flows from the Earl Street delivery point through a high pressure feeder main which is partly 8 inches and partly 4 inches in diameter to the Easthampton distribution system and to the Easthampton holder station at Liberty and Mechanic Streets. A district regulator between the feeder main and the low pressure system provides pressure reinforcement. At the holder station in Easthampton the gas is reduced in pressure and routed to the holder, the low pressure network and to an intermediate pressure feeder main which in turn supplies a district regulator for reinforcing the pressure in part of the low pressure system.

The low pressure systems in Easthampton and Northampton operate at a pressure of 6.0 inches water column. Approximately 5 per cent of the customers of the Northampton Gas Light Company are served from high or inter-

mediate pressure mains through house service pressure regulators. The Northampton Gas Light Company has 69.7 miles of cast iron mains, 16.9 miles of welded steel mains and 24.7 miles of wrought iron or steel mains with screwed or mechanical joint connections. The total of 111.3 miles of mains includes 23.4 miles of principal high pressure mains which range in diameter from 2 inches to 8 inches. 60.2 per cent of the total mains are 4 inches in diameter or larger.

NORWOOD GAS COMPANY

The Norwood Gas Company purchases gas from the Algonquin Gas Transmission Company, delivering it to the Dean Street plant of Norwood. At this location Norwood has an L.P. Air gas plant with an hourly rating of 100 MCF of 1000 Btu equivalent gas at 13 psig, or 2400 MCF per day. During normal peak-shaving operations L.P. Air gas is mixed directly with the incoming natural gas and distributed through regulators to the low pressure distribution system of Norwood and directly to the intermediate pressure mains. Norwood has propane storage in the amount of 50,000 gallons equal to 4600 MCF of 1000 Btu equivalent gas.

In the event of complete failure of pipeline gas, the L.P. Air gas plant is presently capable of supplying the entire load of Norwood. During normal peak-shaving operations, a 55% mixture of L.P. Air gas with natural gas is the maximum permitted by interchangeability.

District pressure regulators connecting between the high pressure feeder mains and the low pressure network at necessary locations serve to reinforce the pressure in the low pressure system. The low pressure system operates at 6.0 inches water column. Approximately 11 per cent of the customers of the Norwood Gas Company are supplied from high pressure mains and house service pressure regu-

lators. The Norwood Gas Company has 4.2 miles of cast iron mains, 44.0 miles of welded steel mains and 23.9 miles of wrought iron or steel mains which have screwed or mechanical joint connections. The total of 72.1 miles of mains includes 13.7 miles of principal high pressure feeder mains ranging in diameter from 1½ inches to 8 inches. 69.8 per cent of the total mains are 4 inches in diameter or larger.

WACHUSETT GAS COMPANY

The Wachusett Gas Company consists of two completely separated divisions, the Clinton division and the Leominster division. There is no physical connection between the distribution systems of those two divisions. The Leominster division of the company has an L.P. Air gas plant and storage holder located at Mill Street in Leominster. The L.P. Air gas plant is a high pressure plant with a production capacity of 130 MCF per hour @ 10 psig of 1000 Btu equivalent gas or 3120 MCF per day. Fuel storage for L.P. Air gas production consists of 50,000 gallons of propane storage equal to 4600 MCF of 1000 Btu equivalent gas. L.P. Air gas as produced for peak-shaving is mixed directly with the incoming natural gas and routed to the high pressure feeder system and also through a pressure regulator to the local low pressure distribution system. A 50% mix of L.P. Air gas and natural gas is considered to be the maximum usable mixture during peak-shaving on account of interchangeability problems with appliances. In the event of a complete failure of natural gas supply the capacity of the L.P. Air gas plant is sufficient to carry the entire Leominster division load of Wachusett Gas Company.

The Clinton division of Wachusett Gas Company has no production facilities of any kind. There is at the Pleasant Street holder station a 150 MCF wet seal holder capable of supplying pressure to the low pressure portion of the town

of Clinton, and this with a readily established emergency tie with Worcester provides backup to this division.

The Wachusett Gas Company purchases all of its natural gas requirements from Tennessee Gas Transmission Company through two receiving stations; one located at Bishop Street, Leominster, and the other located at Barrett Street, Clinton.

In the Leominster division, the incoming natural gas flows through a 66-inch primary high pressure feeder which leads from the receiving station to the L.P. Aid gas plant at Mill Street, Leominster. At the gas plant location, the gas is reduced in pressure and routed to the storage holder, the low pressure distribution system and to the high and intermediate pressure feeder mains which extend into Leominster and part of Lunenburg. Approximately 10 per cent of the customers in the Leominster division are supplied through house service pressure regulators from high or intermediate pressure mains. The remainder of the customers are supplied from low pressure mains in which the pressure is reinforced by district regulators connected between the high or intermediate pressure feeder mains and the low pressure mains at necessary locations. The low pressure system operates at a pressure of 6.0 inches water column.

In the Clinton division, the incoming natural gas flows through a 6-inch primary high pressure feeder main which leads from the receiving station to the holder and regulator station at Pleasant Street, Clinton. At the Pleasant Street location the gas is reduced in pressure and routed to the 150 MCF storage holder, the low pressure distribution network and to a high pressure feeder main which extends into Clinton to supply a district regulator station. The district regulator station reinforces the low pressure network supplying Clinton and a very small area of Lancaster.

Less than 1 per cent of the customers in Clinton are served from high pressure mains through house service pressure regulators. Nearly all of the customers receive gas from the low pressure system which operates at a pressure of 6.0 inches water column.

The Wachusett Gas Company has approximately 76.7 miles of cast iron mains, 8.7 miles of welded steel mains and 11.5 miles of wrought iron or steel mains with screwed or mechanical joint connections for a total of 96.9 miles of mains. This latter figure includes 10.1 miles of principal high pressure feeder mains ranging in diameter from 4 inches to 10 inches. Mains which are 4 inches in diameter or larger represent 86.1 per cent of the total length of the distribution system.

FEBRUARY, 1960

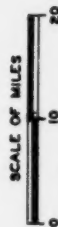
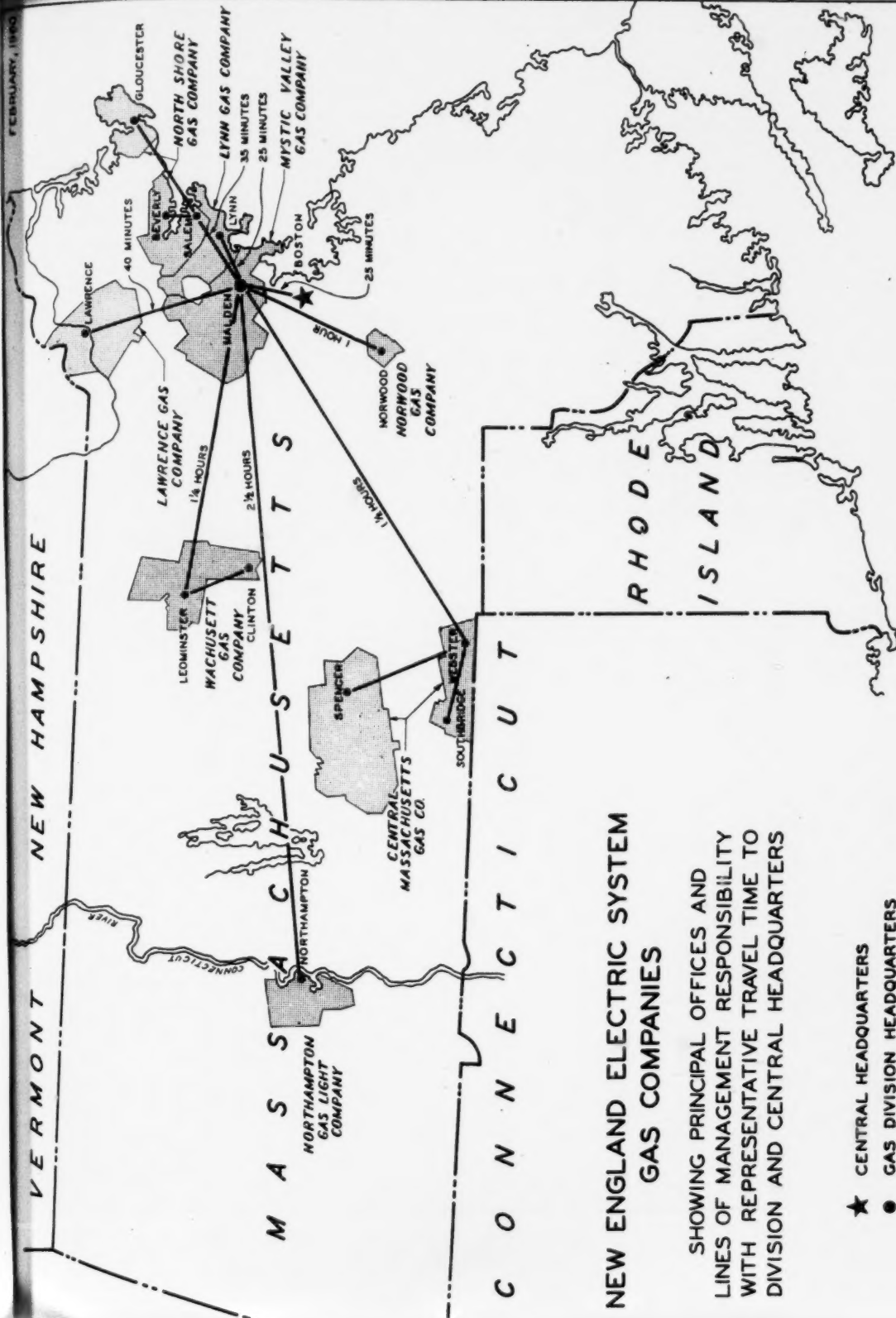
VERMONT NEW HAMPSHIRE

M A S S A C H U S E T T S
C O N N E C T I C U T

NEW ENGLAND ELECTRIC SYSTEM GAS COMPANIES

SHOWING PRINCIPAL OFFICES AND
LINES OF MANAGEMENT RESPONSIBILITY
WITH REPRESENTATIVE TRAVEL TIME TO
DIVISION AND CENTRAL HEADQUARTERS

- ★ CENTRAL HEADQUARTERS
- GAS DIVISION HEADQUARTERS
- LOCAL OFFICES



CITY GATE COST OF NATURAL GAS FOR SPACE HEATING VS RETAIL COST OF #2 OIL

City	2 Nat. Gas Supplier	3		4 Natural Gas		5	6	7	8
		City Gate Rate (1)		Commodity		Cost/MCF 27% L.F. (2)	\$/gal. Jan. 1960 (3)	Cost per MM Btu	Difference Col. 7-Col. 5
		Demand							
Chicago	Atlantic Seaboard	\$2.95	31.47¢			67.39¢	15.04	107.43¢	40.04¢
St. Louis	Algonquin	6.34	33.5			110.70	15.28	109.14	(1.56)
St. Paul	Nat. Gas Pipeline	2.66	20.0			52.39	15.11	107.93	55.54
St. Peter	Amer. Louisiana	3.61	27.0			70.96	16.07 (4)	114.79	43.83
St. Cloud	Cities Service	1.15	18.5			32.50	15.84	113.14	80.64
St. Joseph, Mo.	Tennessee	5.05	36.1			97.59	15.28	109.14	11.55
St. Louis, Mo.	Northern Natural	4.17	22.9			73.68	15.43	110.21	36.53
St. Louis, Mo.	Transco.	3.72	26.0			71.30	15.23	108.79	37.49
St. Louis, Mo.	Manufacturers	2.90	35.35			70.66	14.98	107.00	36.34
St. Louis, Mo.	(Ore.) Pacific Northwest	3.53	21.0			63.98	15.30	109.29	45.31
St. Louis, Mo.	Miss. River Fuel	2.00	20.0			44.35	15.71	112.21	67.86
St. Louis, Mo.	Pacific Northwest	3.53	21.0			63.98	17.89	127.79	63.81
St. Louis, Mo.	Atlantic Seaboard	2.95	31.47			67.39	15.14	108.14	40.75

Bo (1) Effective Rates January 1, 1960

(2) Approximate Load Factor of Space Heating Gas

(3) B.L.S. Retail Prices and Indices of Fuels and Electricity

(4) January, 1959 B.L.S. does not report figure for January, 1960

TENNESSEE GAS TRANSMISSION COMPANY

Zone Rates Effective April 5, 1960

	CD and G Rates				GS
	<u>Demand</u>	<u>Commodity</u>	<u>100% LF</u>	<u>65% LF</u>	
ZONE 1 Tenn., Ala., Miss.	\$2.85	22.6¢	32.0¢	37.0¢	38.6¢
ZONE 2 Kentucky	3.55	25.5	37.2	43.5	46.1
ZONE 3 W. Va.	3.95	26.9	39.9	46.9	50.2
ZONE 4 Ohio, Pa.	4.50	29.1	43.9	51.9	56.0
ZONE 5 N.Y., N.J.	5.20	32.6	49.7	58.9	64.1
ZONE 6 N.E.	6.15	36.1	56.3	67.2	73.8

Note: Volumes measured at 15.025 pounds per square inch absolute

**GAS HOUSEHEATING CUSTOMERS AND HEATING SATURATIONS, BY CENSUS DIVISION
1952 - 1961 YEARLY AVERAGES (1) (2)**

Census Division	1952		1953		1954		1955		1956	
	Customers	Percent	Customers	Percent	Customers	Percent	Customers	Percent	Customers	Percent
United States	11,054	46.9	12,297	49.9	13,402	52.8	14,711	56.0	16,080	57.9
New England	93	6.1	108	6.9	123	8.0	146	9.6	197	13.0
Middle Atlantic	981	15.4	1,227	18.9	1,409	21.4	1,665	25.0	1,864	27.4
East North Central	1,889	35.2	2,118	38.0	2,348	41.0	2,694	45.6	3,026	48.6
West North Central	1,053	58.5	1,200	62.4	1,343	67.2	1,454	69.7	1,567	70.9
South Atlantic	678	42.8	798	46.8	905	50.9	1,042	56.4	1,156	57.4
East South Central	570	70.7	656	75.6	715	75.5	782	76.7	883	77.1
West South Central	2,430	99.4	2,570	99.2	2,714	99.8	2,849	99.2	3,016	97.3
Mountain	565	89.4	646	92.4	705	93.5	757	91.8	815	87.4
Pacific	2,795	92.2	2,974	92.2	3,140	93.2	3,322	93.7	3,556	93.2

Census Division	1957		1958		1959 (3)		1960 (3)		1961 (3)	
	Customers	Percent	Customers	Percent	Customers	Percent	Customers	Percent	Customers	Percent
United States	17,188	61.2	18,265	63.4	19,547	66.1	20,856	68.7	22,170	71.1
New England	245	16.2	290	19.1	333	21.9	377	24.8	423	27.4
Middle Atlantic	1,971	28.8	2,189	31.6	2,420	34.5	2,597	34.6	2,772	38.6
East North Central	3,314	52.7	3,619	56.1	3,967	60.0	4,367	64.4	4,747	68.6
West North Central	1,656	74.1	1,742	76.2	1,864	79.3	1,976	81.8	2,092	84.8
South Atlantic	1,226	59.9	1,301	61.6	1,403	64.3	1,538	67.7	1,691	71.1
East South Central	976	83.4	1,040	85.0	1,116	86.6	1,168	86.3	1,220	85.1
West South Central	3,143	99.8	3,233	99.5	3,342	99.6	3,447	99.7	3,546	99.9
Mountain	900	94.9	953	94.6	1,022	96.0	1,099	97.8	1,180	99.1
Pacific	3,757	96.6	3,898	97.0	4,080	97.5	4,287	98.6	4,499	99.1

Notes: (1) Customers reported in thousands

(2) Percentages refer to proportion of total residential customers, within specified areas, using gas for heating.

(3) Years 1952-1958 Actual - Years 1959-1960-1961 Estimated

	Mystic		Lawrence		North Shore		Lynn		Central Mass.		Northampton		Wachusett		Norwood	
	1-1-59	PF	1-1-59	PF	1-1-59	PF	1-1-59	PF	1-1-59	PF	1-1-59	PF	1-1-59	PF	1-1-59	PF
Actual-Jan. 1, 1959	18	-	20	-	21	-	22	-	15	-	21	-	15	-	19	-
Sec.-Adm. and Staff	14	31	4	15	6	16	-	16	3	2	5	10	2	9	3	6
Part Time	32	31	24	15	27	16	22	16	18	9	26	10	17	9	22	6
Full Time	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Production	35	35	16	16	20	20	20	23	1	1	4	4	1	1	1	1
Part Time	35	35	16	16	20	20	20	23	1	1	4	4	1	1	1	1
Full Time	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Distribution	55	55	14	14	17	17	3	34	10	10	5	5	5	5	3	3
Part Time	55	55	14	14	17	17	24	34	10	10	5	5	5	5	3	3
Full Time	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	-	-	3	3	2	2	41	4	-	-	-	-	-	-	-	-
Service and Garage	-	-	3	3	2	2	41	4	-	-	-	-	-	-	-	-
Part Time	-	-	3	3	2	2	41	4	-	-	-	-	-	-	-	-
Full Time	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Utilization	2	-	-	-	-	-	30	-	-	-	-	-	-	-	-	-
Part Time	88	90	25	26	26	26	25	49	9	10	8	9	8	8	4	4
Full Time	90	90	25	26	26	26	55	49	9	10	8	9	8	8	4	4
Total	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Business	9	-	-	-	-	-	29	-	-	-	-	-	-	-	-	-
Part Time	55	60	21	21	19	19	-	24	7	7	4	4	5	5	2	2
Full Time	64	60	21	21	19	19	29	24	7	7	4	4	5	5	2	2
Total	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
General and Cust. Accounting	4	-	2	-	-	-	129	-	-	-	-	-	-	-	-	-
Part Time	122	156	40	54	57	57	2	95	13	24	11	19	6	21	7	9
Full Time	126	156	42	54	62	57	131	95	13	24	11	19	6	21	7	9
Total	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Grand Total	33	-	22	-	21	-	274	-	15	-	21	-	15	-	19	-
Part Time	369	432	123	149	132	157	62	245	43	61	37	51	27	49	20	25
Full Time	402	432	145	149	153	157	336	245	58	61	58	51	42	49	39	25

SUMMARY - EBASCO REPORT - GAS COMPANIES
Personnel Analysis - Pro Forma - as of January 1, 1959
Executive, Administrative and Staff, etc.

	Mystic	Lawrence	North Shore	Lynn	Central Mass.	Northampton	Wachusett	Northwood
President	1 \$ 33,000	1 \$ 21,000	1 \$ 21,000	1 \$ 22,000	1 \$14,000	1 \$14,000	1 \$14,000	1 \$14,000
V.P.-Operations	1 22,000	1 16,000	1 16,000	1 16,000				
Director - Eng.	1 15,000							
Engineer	1 12,000	1 11,000	1 11,000	1 10,000	1 10,000	1 10,000	1 10,000	
Dist. Engineer	1 7,000							
Asst. Engineer	2 18,000	1 9,000	1 9,000	1 7,840				
Jr. Engineer	1 7,000	1 7,000	1 7,000	1 5,886				
Director Personnel	1 11,000							
Personnel Asst.	1 8,000							
Purchasing Agent	1 10,000							
Gen. Supt. *	1 12,000	1 8,680	1 9,000	1 11,000	1 10,000	1 10,000	1 10,000	1 10,000
Local Manager (Gloucester)			1 8,340					
V.P.-Sales-Mktg.	1 20,000							
Exec. Asst.	1 11,000	1 8,000						
Sales Manager	1 15,000	1 15,000	1 15,000	1 15,000	1 6,000	1 6,000	1 6,000	
Admin. Asst.	1 20,000	1 16,000	1 16,000	1 16,000	1 10,000	1 10,000	1 10,000	1 10,000
Treasurer	1 11,000							
Auditor	1 7,000							
Accountant	1 14,000	1 10,000	1 10,000	1 10,000	1 7,000	1 7,000	1 7,000	1 6,000
Asst. Treas. & Clerk	1 9,000							
Chief Acct.								
Clerk - Male						1 4,134		
Sec. & Steno.	12 52,500	5 22,600	5 22,600	6 27,890	3 12,300	3 12,800	3 12,300	2 8,300
Total	31 \$299,500	15 \$144,280	16 \$152,940	16 \$149,616	9 \$69,300	10 \$73,934	9 \$69,300	6 \$48,300
*Also, Vice President - 4 small companies.								
No. Customers	98,836	32,801	33,113	40,922	9,595	8,023	8,048	4,490
Area Served (Sq. Miles)	102.0	86.8	85.4	41.0	200.0	47.9	88.0	10.0
Population Served	437,133	127,605	116,231	156,159	61,266	37,969	46,258	21,052
Miles Main	887.0	295.0	335.68	363.2	137.73	106.82	94.5	67.74
No. Employees	369	123	132	274	43	37	27	20
Full time	33	22	21	62	15	21	15	19
Part time					58	58	12	39
Total	402	145	153	336	58	51	49	25
No. Employees-Pro Forma	432	149	157	245	61	51	49	25

RESPONDENTS' EXHIBIT NO. 73
NEW ENGLAND POWER SERVICE COMPANY

SUMMARY OF SERVICES BILLED — EXCLUDING
MASSACHUSETTS GAS COMPANIES
YEAR ENDED DECEMBER 31, 1958

SERVICING DIVISION

Plant Accounting and Reclassification	\$ 40,664.70
Audit Reports Methods Assistance	164,801.33
Corporate Services	155,013.55
Employee Relations Assistance	104,629.21
Insurance and Medical Assistance	134,075.02
Labor Relations Assistance	40,417.88
Sales Department Assistance	299,360.56
Publication Services	88,507.68
Purchasing and Stores Service	264,218.87
Rate Services	55,668.81
Safety Assistance	67,760.06
Tax Services	94,931.57
Treasury Services	188,572.44

Subtotal Services	\$1,698,621.68
Specific Requests	327,647.50

Total Services and Specifics	\$2,026,269.18
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ENGINEERING

General Engineering Services	\$ 526,864.54
Specific Requests—Engineering Services	1,005,839.95

Total Servicing and Specifics	\$1,532,704.49
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CONSTRUCTION PERFORMED	\$5,120,290.86
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GRAND TOTAL—SERVICES BILLED	\$8,679,264.53
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1345
RESPONDENTS' EXHIBIT NO. 82

NEW ENGLAND ELECTRIC SYSTEM MISCELLANEOUS GAS SUBSIDIARIES CONSOLIDATED
BALANCE SHEETS
AS AT DECEMBER 31, 1958

Central Mass. Gas Company	Lavaca Gas Company	Iym Gas Company *	Myrtle Valley Gas Company	Northampton Gas Light Company	North Shore Gas Company	Howard Gas Company	Webbport Gas Company	Eliminations	Gas Subsidiaries Consolidated
Property, plant and equipment Construction work in progress Total	\$4,530,552 2,111,408 2,281,970	\$6,132,749 2,111,408 8,244,157	\$23,271,068 23,271,068 23,271,068	\$2,099,357 2,099,357 2,099,357	\$ 9,794,330 9,794,330 9,794,330	\$1,311,095 1,311,095 1,311,095	\$1,876,786 1,876,786 1,876,786		\$55,722,123 55,722,123 55,722,123
Less reserves for depreciation Net property, plant and equipment	335,554 2,205,436	6,155,844 2,139,871	23,247,663 2,701,548	2,099,357 4,507,507	9,794,330 6,109,500	1,311,095 4,106,353	1,876,786 2,556,736		56,311,256 11,471,634
Miscellaneous investments									14,802,524
Cash	137,499	75,318	93,740	76,761	313,272	77,713	115,156		5,500
Accounts receivable - less reserves	227,313	811,212	316,232	140,809	771,400	110,272	215,361		3,676,823
Investments	69,218	324,212	146,665	37,448	211,190	36,955	43,013		5,048,464
Restricted deposits		8,607			300				1,195,321
Unamortized costs for conversion to natural gas, being amortized against income	61,380	281,290	335,503	61,884	306,650	50,390	65,760		8,907
Installation costs of rented water heaters	48,698	126,106	40,313	33,002	162,138	20,865	59,512		1,945,347
Unamortized expenses (less premium) on long-term debt		21,072	80,130		44,130				972,327
Prepaid expenses and other deferred charges	1,456	4,248	30,130	1,468	4,841	761	1,135		75,859
Total Assets	\$2,753,780	\$6,500,438	\$7,015,718	\$1,921,359	\$10,014,728	\$1,415,473	\$2,056,693	\$12,4175	\$25,836,103

LIABILITIES	Central Mass. Gas Company	Lavaca Gas Company	Iym Gas Company *	Myrtle Valley Gas Company	Northampton Gas Light Company	North Shore Gas Company	Howard Gas Company	Webbport Gas Company	Eliminations	Gas Subsidiaries Consolidated
First mortgage 6 1/2 bonds due 1977										\$ 5,500,000
First mortgage 4 1/2 bonds due 1975										2,500,000
First mortgage 3-5/8 bonds due 1974										5,500,000
First mortgage 3-1/2 bonds due 1970										1,000,000
3-1/8 bonds due 1971										1,500,000
3-1/2 bonds due 1971										1,500,000
Conversion notes payable due 1960-1968										1,500,000
Unamortized costs on long-term debt										1,500,000
Notes payable to EES										1,500,000
Notes payable to banks, due within one year										1,500,000
Accounts payable										1,500,000
Accrued liabilities (taxes, interest, etc.)										1,500,000
Consumers' deposits										1,500,000
Contributions and advances for extensions										1,500,000
Surplus reserves and other deferred credits										1,500,000
Capital Stock and Surplus										1,500,000
Minority interest in capital stock and surplus										1,500,000
EES minority interest in capital stock and surplus										1,500,000
Total Liabilities										1,500,000

* Pro forma showing gas properties and related net assets of Iym Gas and Electric Company as at December 31, 1958. On February 5, 1960, Iym Gas and Electric Company transferred its gas properties and related net assets to Iym Gas Company.

**NEW ENGLAND ELECTRIC SYSTEM MASSACHUSETTS GAS SUBSIDIARIES CONSOLIDATED
INCOME STATEMENTS
FOR THE YEAR ENDED DECEMBER 31, 1958**

	Central Mass. Gas Company	Lawrence Gas Company	Lynn Gas Company*	Weymouth Valley Gas Company	Northampton Gas Light Company	North Shore Gas Company	Worcester Gas Company	Massachusetts Company	Eliminations	Gas Subsidiaries Consolidated
Gross Earnings										
Gas Sales	\$1,021,105	\$3,075,111	\$3,855,157	\$9,361,133	\$821,139	\$3,237,876	\$505,530	\$788,804	\$1,764	\$22,666,175
Other Operating Revenue	1,414	1,970	17,333	9,637	27,213	29,493	153	616		96,095
Total Operating Revenues	1,022,519	3,077,101	3,872,790	9,370,770	848,352	3,267,369	505,683	789,420	1,764	22,762,270
Merchandise and Jobbing	4,179	28,974	15,007	29,503	7,813	(14,976)	3,103	3,864		83,767
Other Income	2,133	8,553	20,984	10,957	3,369	10,924	2,115	2,853		91,918
Total Gross Earnings	3,028,831	3,115,628	3,908,781	9,411,230	859,534	3,262,417	511,331	796,137	1,764	22,925,055
Operating Expenses and Taxes										
Operating Costs	271,437	844,037	964,216	2,294,253	215,818	921,101	131,702	219,916		5,895,183
Purchased Gas	380,533	992,767	1,111,264	2,644,907	261,215	907,675	175,768	230,237		6,703,666
Maintenance ex. Amortization of Conversion Costs	67,369	206,492	272,897	632,785	54,785	112,749	26,055	46,384	1,764	1,451,667
Amortization of Cost of Converting Consumers' Appliances	21,060	86,520	119,888	256,320	30,668	90,840	12,320	17,840		625,316
Depreciation	52,000	150,000	174,357	450,000	161,000	212,000	27,000	38,000		1,110,357
Total Operating Expenses	792,399	2,279,816	2,639,622	6,178,265	622,021	2,274,368	375,615	555,317	1,764	16,015,612
Taxes - Municipal and State	51,552	224,637	438,665	918,586	64,337	279,852	22,611	51,403		2,101,513
Taxes - Federal (other than Income)	3,883	12,179	16,559	36,170	3,922	12,952	1,806	2,388		69,559
Taxes - Federal Income	55,135	162,131	264,197	699,818	63,854	234,684	39,730	73,769		1,660,387
Total Taxes	110,570	398,947	719,421	1,654,574	132,113	527,188	64,147	127,560		3,791,369
Total Operating Expenses and Taxes	902,969	2,678,763	3,359,043	7,832,839	754,134	2,801,556	439,762	682,877	1,764	19,807,553
Gross Income (Balance before Interest)	130,997	376,861	499,738	1,209,391	105,430	461,561	71,439	113,260		3,117,497
Income Deductions										
Interest on long-term debt	3,548	120,000	80,218	409,375	3,162	135,000		3,016		754,613
Amortization of Conversion Costs Payable		14,813	11,916	37,785		14,014				88,584
Amortization of Debt Discount and Expense		2,091	2,022	3,162		2,203				5,478
Interest on Short-term Notes Payable	34,205	2,711	30,398	3,000	22,931	32,811	26,130	23,024		175,210
Other Interest Expense	119	1,610	5,295	16,295	777	2,802	1,131	665		28,694
Interest on Construction - Credit		(715)	(136)	(4,273)	(951)		(1,504)			(7,579)
Other Charges against Income		(4,372)				9,600	(1,295)			3,933
Total Income Deductions	37,872	135,138	139,763	462,344	26,219	136,130	21,662	26,705		1,008,933
Net Income before Dividends	\$ 113,125	\$ 241,723	\$ 359,975	\$ 847,047	\$ 79,211	\$ 265,131	\$ 16,977	\$ 86,555		\$ 2,062,564
Minority Interest in Net Income		\$ 23,124	\$ 22,455	\$ 41,956		\$ 6,617	\$ 290			\$ 57,142
Net Income Applicable to NEES	\$ 113,125	\$ 218,599	\$ 337,520	\$ 805,091	\$ 79,211	\$ 258,514	\$ 16,687	\$ 86,555		\$ 2,012,122

() Indicates red figure.

* Reflecting the operations of the gas properties of Lynn Gas and Electric Company which were acquired by Lynn Gas Company as of January 1, 1960.

RESPONDENTS' EXHIBIT NO. 83

NEW ENGLAND ELECTRIC SYSTEM MASSACHUSETTS GAS SUBSIDIARIES CONSOLIDATED
INCOME STATEMENTS
FOR THE YEAR ENDED DECEMBER 31, 1959

	Central Mass. Gas Company	Lawrence Gas Company	Lynn Gas Company	Weymouth Valley Gas Company	Northington Gas Light Company	North Shore Gas Company	Newwood Gas Company	Wachusett Gas Company	Eliminations	Gas Subsidiaries Consolidated
Gross Earnings										
Gas Sales	\$1,172,171	\$1,540,911	\$4,002,493	\$10,398,471	\$921,910	\$3,632,261	\$95,053	\$857,526		\$25,111,186
Other Operating Revenue	1,186	1,125	25,653	3,597	27,469	26,303	136	530	\$1,323	91,266
Total Operating Revenues	1,173,357	3,542,036	4,028,146	10,402,068	949,379	3,658,564	585,189	858,056	1,323	25,202,452
Merchandise and Jobbing	3,920	32,370	194	(15,794)	2,131	(7,092)	(3,559)	6,163		20,633
Other Income	2,644	5,150	20,807	19,560	3,211	11,617	3,026	3,577		10,662
Total Gross Earnings	1,180,221	3,583,896	4,049,337	10,411,024	955,521	3,666,089	584,656	867,796	1,323	25,223,717
Operating Expenses and Taxes										
Operating Costs	284,085	929,258	1,076,300	2,900,064	266,750	1,036,355	168,112	230,577		6,123,501
Purchased Gas	151,596	1,224,113	1,215,538	3,105,531	293,371	1,040,812	157,716	253,268		7,752,125
Maintenance, etc.	95,128	213,526	336,873	1,004,373	62,195	199,478	29,196	56,116	1,323	2,025,854
Amortization of Cost of Converting Consumers' Appliances										
Depreciation	21,060	86,520	119,888	256,320	20,628	90,810	12,120	17,940		625,316
Total Operating Expenses	60,000	160,000	180,196	190,000	13,000	220,000	30,000	12,000		1,225,196
Taxes - Municipal and State	912,159	2,613,117	2,930,795	7,354,318	615,934	2,587,525	397,176	609,901	1,323	18,121,992
Taxes - Federal (Other than Income)	55,507	244,744	521,772	913,138	64,665	282,039	30,700	56,583		2,199,193
Taxes - Federal Income	5,163	15,166	21,005	15,178	4,887	16,028	2,365	3,065		113,157
Total Taxes	72,100	215,140	211,632	124,986	76,969	262,154	52,315	76,665		1,451,554
Total Operating Expenses and Taxes	133,070	505,350	704,402	3,143,362	116,521	560,521	81,300	136,298		3,763,904
Gross Income (Balance before Interest)	1,045,229	3,118,797	3,715,197	8,769,750	132,155	3,118,036	181,556	716,199	1,323	21,885,096
Income Deductions										
Interest on long-term debt	136,992	135,099	334,140	1,671,274	122,596	518,053	103,100	121,597		3,140,851
Interest on Conversion Notes Payable	2,767	120,000	17,116	1,093,375		135,000				711,497
Amortization of debt discount and expense		11,638	6,161	29,687	2,724	11,011		2,369		66,377
Interest on short-term Notes Payable	12,354	1,225	1,327	305		2,203				5,060
Other Interest Expense	595	15,971	14,167	10,099	27,094	12,697	35,665	30,519		248,816
Interest during Construction - Credit		3,552	867	20,553	2,394	2,991	2,741	3,122		17,025
Other Charges against Income		(710)	(11)	(5,164)		(609)				(6,794)
Total Income Deductions	15,736	151,676	69,907	1,914,619	32,112	203,293	36,106	34,010		1,072,089
Net Income before Dividends	\$ 89,256	\$ 283,123	\$ 264,233	\$ 1,176,605	\$ 90,141	\$ 314,760	\$ 44,694	\$ 85,587		\$ 2,363,742
Minority Interest in Net Income	\$ 89,256	\$ 27,133	\$ 16,193	\$ 6,805		\$ 7,796	\$ 399	\$ 53,696		\$ 53,696
Net Income Applicable to WDS		\$ 256,290	\$ 1,169,740	\$ 1,169,740	\$ 90,141	\$ 306,964	\$ 44,295	\$ 85,587		\$ 2,310,046

() Indicates red figure

* Reflecting the operations of the gas properties of Lynn Gas and Electric Company which were acquired by Lynn Gas Company as of January 1, 1960.

NEW ENGLAND ELECTRIC SYSTEM, MASSACHUSETTS GAS SUBSIDIARIES CONSOLIDATED
MAJOR SHAREHOLDERS
AS AT JANUARY 1, 1960

	Central Mass. Gas Company	Levermore Gas Company	Ipsen Gas Company	Mythic Valley Gas Company	Northampton Gas Light Company	North Shore Gas Company	Northwood Gas Company	Wachusett Gas Company	Eliminations	Gas Subsidiaries Consolidated
ASSETS										
Property, plant and equipment	\$2,773,117	\$6,613,638	\$9,098,954	\$25,096,250	\$2,259,905	\$10,291,712	\$1,439,484	\$2,064,967		\$59,632,027
Construction work in progress	8,753	5,261,711	9,727,711	25,317,768	5,175	45,709	21,705	15,396		513,223
Total	2,781,870	11,875,349	18,826,665	50,414,018	2,265,080	10,337,421	1,461,189	2,080,363		60,145,250
Less reserves for depreciation	2,780,526	1,266,940	3,011,538	4,890,837	590,060	1,848,721	259,500	194,247		12,644,948
Net property, plant and equipment	103,344	9,608,409	15,815,127	45,523,181	1,675,020	8,488,700	1,201,689	1,886,116		47,499,302
Miscellaneous investments	2,391,536	5,394,859	6,110,193	4,000	4,000	1,500	87,530	12,681		3,500
Accounts receivable - less reserves	133,865	161,412	228,200	128,665	100,321	233,636	110,214	262,547		1,464,000
Inventories	21,204	799,654	137,028	2,609,659	137,028	756,336	202,547	63,970		5,394,011
Restricted deposits	80,876	155,404	131,803	574,072	37,500	277,533	44,552	63,970		1,312,570
Unamortised costs for conversion to natural gas, being amortised against income		8,607		6,001		300			\$8,686	16,900
Installation costs of rented water heaters										5,394,011
Unamortised expenses (less premium) on long-term debt										1,312,570
Prepaid expenses and other deferred charges										16,900
Total Assets	\$2,925,909	\$6,884,958	\$7,097,210	\$25,289,758	\$2,031,429	\$10,146,672	\$1,510,394	\$2,208,678	\$8,686	\$59,086,322
LIABILITIES										
First mortgage 6 1/2% bonds due 1977										\$ 5,500,000
First mortgage 6 1/2% bonds due 1975										2,500,000
First mortgage 3-5/8% bonds due 1974										5,500,000
First mortgage 3-1/2% bonds due 1970										1,000,000
3-1/8% note, due 1971										1,489,000
7-1/2-Year Note, 3-7/8%										24,000
Conversion notes payable due 1960-1962										844,000
Current maturities of long-term debt										492,000
Notes payable to NEES										1,390,000
Notes payable to banks, due within one year										850,000
Accounts payable	750,000	600,000	530,000	2,350,000	1,750,000	1,100,000	915,000	850,000	\$8,686	8,500,000
Accrued liabilities (taxes, interest, etc.)	70,944	393,517	176,522	781,198	52,093	299,789	30,381	16,262		1,810,765
Accounts receivable from NEES	81,910	284,066	194,418	741,824	87,354	292,839	56,295	86,057		1,810,765
Consumers' deposits	7,168	10,383	22,214	90,195	5,456	18,591	17,366	9,793		36,786
Contributions and advances for extensions	132	19,359	7,211	7,211	1,260	37,157	10,939	103,688		13,244,695
Surplus reserves and other deferred credits	8,760	14,289	22,407	22,407						5,113,054
Capital Stock and Surplus										2,523,251
Premium on capital stock	1,357,175	1,880,500	1,228,500	9,444,695	605,825	2,387,700	124,500	1,029,000		29,140,571
Surplus invested in plant	293,998	568,803	879,017	879,017	561,911	1,668,512	74	63,319		5,113,054
Earned surplus	69,039	642,671	1,151,113	193,253	57,279	154,404	25,336	25,336		2,523,251
Total Capital Stock and Surplus	1,946,915	3,132,981	4,575,697	11,577,933	1,165,995	4,102,928	189,352	1,152,717		47,499,302
Total Liabilities	\$2,925,909	\$6,884,958	\$7,097,210	\$25,289,758	\$2,031,429	\$10,146,672	\$1,510,394	\$2,208,678	\$8,686	\$59,086,322
Minority interest in capital stock and surplus										\$ 760,904
NEES majority interest in capital stock and surplus	\$1,946,915	\$3,132,981	\$4,575,697	\$11,577,933	\$1,165,995	\$4,102,928	\$189,352	\$1,152,717		28,738,398

RESPONDENTS' EXHIBIT NO. 84

NEW ENGLAND ELECTRIC SYSTEM
Re Investment in Gas Companies
As at January 1, 1960

	Investment per NEES Books		Underlying Book Value of Investment	Return on Investment see "A" below	Interest and Common Dividends Received by NEES Year 1959	Excess of Underlying Book Value at Acquisition Date over Book Amount of Investment
	Stock	Notes	Total			
Central Mass. Gas Co.	\$ 1,625,000.00		\$ 1,625,000.00	\$ 89,255.72	\$ 70,523.25	\$ 150,340.21
Lawrence Gas Co.	2,795,519.71		2,795,519.71	256,290.17	236,002.80	-
Lynn Gas Co.	3,971,649.99	\$1,489,000.00	5,460,649.99	294,279.54	195,294.87	193,258.96
Mythic Valley Gas Co.	8,668,763.47		8,668,763.47	11,569,719.29	1,131,495.00	2,389,896.63
Northampton Gas Light Co.	880,025.00	475,000.00	1,355,025.00	113,934.43	111,898.91	431,215.59
North Shore Gas Co.	3,009,530.12		3,009,530.12	306,963.83	302,712.80	1,353,129.31
Norwood Gas Co.	262,420.00	915,000.00	1,177,420.00	110,045.16	89,284.04	189,065.09
Wachusett Gas Co.	722,155.16		722,155.16	85,586.05	86,436.00	403,022.01
Totals	\$21,935,063.45	\$2,879,000.00	\$24,814,063.45	\$31,233,907.16	\$2,225,647.67	\$5,109,927.80

"A" - Interest for Full Year on Notes earned by NEES, as shown above, at rates in effect at 3/25/60 and 1959 Common Stock Return to NEES (Net Income plus prior year surplus adjustments as included in NEES consolidated net income for 1959).

4/25/60

NEW ENGLAND ELECTRIC SYSTEM AND SUBSIDIARIES

Consolidated Capitalization and Ratios

As at January 1, 1960
(Thousands of Dollars)

	Massachusetts Gas Sub- sidiaries Consolidated		Other, i.e., NEES itself, its Electric and Other Subsidiaries		Consolidated	
	Amount	Per Cent	Amount	Per Cent	Amount	Per Cent
<u>Funded Debt</u>						
Subsidiaries	\$15,989	29.56	\$227,932	41.13	\$243,921	42.07
NEES			64,611	11.66	64,611	11.14
Total Funded Debt	15,989	29.56	292,543	52.79	308,532	53.21
Preferred Stocks of Subsidiaries			50,437	9.10	50,437	8.70
Cumulative Total	15,989	29.56	342,980	61.89	358,969	61.91
Notes Payable - Conversion Loans	1,380	2.55			1,380	.24
Notes Payable - Short-term	7,570	14.00	13,670	2.47	19,850	3.42
Cumulative Total	24,939	46.11	356,650	64.36	380,199	65.57
Minority Interests in Subsidiaries' Common Stocks			666	.12	1,457	.25
Cumulative Total	24,939	46.11	357,316	64.48	381,656	65.82
Share Capital Including Surplus	29,149	53.89	196,843	35.52	198,167	34.18
Cumulative Total	\$54,088	100.00	\$554,159	100.00	\$579,823	100.00

NEW ENGLAND ELECTRIC SYSTEM
Gas Properties and Investments in Subsidiaries Sold or Disposed of
1947 - 1959

Year of Sale or Disposition	Net Plant, Materials and Supplies etc.	NEES Investment in			Consideration Received	Loss on Sale or Disposition	Loss in Consolidation
		Stock	Notes and Advances	Total			
Athol Gas Company (A)	1954	\$ 156,644.49	\$100,000.00	\$211,880.05	\$ 750.00	\$ 155,894.49	\$ 155,894.49 (G)
Berkshire Gas Company (B)	1954	698,281.85		698,281.85	662,500.00	35,781.85	42,630.26
Blackstone Gas Company (C)	1955	50,144.17	22,160.44	72,304.61	6,000.00	66,304.61	19,672.79 (G)
Haverhill Electric Company (D)	1950	213,079.34			197,839.18	15,240.16	10,419.39 (H)
Narragansett Electric Co., The (E)	1959	1,961,278.41			552,298.54	1,408,979.87	862,979.87 (I)
Pequot Gas Company, The (F)	1959	150,000.00	30,000.00	180,000.00	35,000.00	145,000.00	129,387.89
Totals					<u>\$1,454,387.72</u>	<u>\$1,827,200.98</u>	<u>\$1,220,984.69</u>

(A) Net Plant plus materials and supplies sold to Midstate Gas Co. on March 24, 1954.

(B) Sold to Pittsfield Coal Gas Company on July 22, 1954.

(C) Sold to Ralph W. Sullivan.

(D) Sold to Haverhill Gas Light Company.

(E) Sold to South County Gas Company and Bristol and Warren Gas Company.

(F) Sold to a group of purchasers: James M. Malloy, Morton Myerson, Ralph W. Sullivan, Robert L. Gourley, M. D. Gourley and H. T. Sullivan.

(G) Including adjustments to general reserve relating to investments.

(H) Majority portion charged against income in consolidation.

(I) After deducting \$546,000 reduction in federal income taxes from loss on sale.

RESPONDENTS' EXHIBIT NO. 87A

Res. Exhibit No. 87A

NEW ENGLAND ELECTRIC SYSTEM MASSACHUSETTS GAS SUBSIDIARIES CONSOLIDATED
INCOME STATEMENTS
FOR THE YEAR ENDED DECEMBER 31, 1960

Central Mass. Gas Company	Lavacore Gas Company	Lynn Gas Company	Weymouth Gas Company	North Shore Gas Company	Essex Gas Company	Eliminations	Gas Subsidiaries Consolidated
Gross Earnings							
Gas Sales							
\$1,257,599	\$3,878,061	\$1,290,075	\$11,132,317	\$3,908,959	\$669,094	\$928,562	\$7,055,739
1,126	1,690	100,252	8,343	24,651	150	828	27,257,527
Total Operating Revenues	3,879,751	1,390,227	11,140,660	3,933,610	669,244	929,390	27,282,927
9	2,848	10,031	(56,439)	5,008	(1,411)	80	(16,559)
Licensing and Jobbing	5,183	51,289	25,098	1,027,908	3,717	1,829	27,265,277
Total Gross Earnings	1,284,525	1,441,516	11,165,759	3,938,618	670,661	930,219	27,301,206
Operating Expenses and Taxes							
Operating Expenses	304,546	975,913	2,638,566	294,707	1,123,364	257,124	7,086,939
Depreciation	1,626,589	1,620,467	3,677,307	344,430	1,186,707	307,424	9,132,568
Amortization of Conversion Costs	695,056	1,620,467	3,677,307	344,430	1,186,707	307,424	9,132,568
Maintenance ex. Amortization of Conversion Costs	71,059	209,556	346,239	1,087,203	346,239	55,180	2,055,383
Amortization of Cost of Converting Consumers' Appliances	21,060	86,520	115,635	256,320	90,840	12,200	431,043
Total Operating Expenses	65,000	1,650,000	510,000	20,668	2,301,000	15,000	2,301,000
Taxes - Municipal and State	956,769	2,961,598	3,359,310	8,357,286	2,961,598	607,562	20,287,333
Taxes - Federal (Other than Income)	82,785	286,604	51,753	58,842	286,604	2,267,276	2,267,276
Taxes - Federal (Income)	6,146	24,979	54,979	5,502	2,980	6,895	1,38,693
Taxes - Federal (Income)	16,812	24,979	54,979	5,502	2,980	6,895	1,38,693
Total Taxes	105,702	336,033	177,555	72,782	311,176	13,197	4,051,201
Total Operating Expenses and Taxes	1,220,321	1,456,536	9,238,137	905,410	2,612,176	811,953	24,279,533
Gross Income (Balance before Interest)	344,094	433,951	2,74,760	1,297,003	525,221	101,116	3,026,114
Income Deductions							
Interest on Long-term Debt	120,000	16,025	65,715	1,981	8,032	1,726	710,400
Interest on Conversion Notes Payable	2,033	8,462	214,955	2,203	2,203	3,733	1,382
Amortization of Debt Discount and Expense	10,350	38,553	29,397	26,163	59,504	39,008	1,05,280
Interest on Short-term Notes Payable	161	1,760	1,170	635	1,676	717	15,579
Other Interest Expenses	2,906	2,906	5,367	2,501	1,057	12,611	12,611
Interest on Accounts Payable	12,764	12,764	5,367	26,598	205,535	21,183	6,146
Other Charges against Income	12,764	12,764	5,367	26,598	205,535	21,183	6,146
Total Income Deductions	12,764	12,764	5,367	26,598	205,535	21,183	1,172,642
Net Income before Dividends	\$ 101,330	\$ 266,850	\$ 399,951	\$ 729,310	\$ 319,686	\$ 54,934	\$ 1,853,501
Minority Interest in Net Income	\$ 25,546	\$ 12,457	\$ 1,267	\$ 1,267	\$ 1,267	\$ 1,267	\$ 1,267
Minority Interest in Net Income	\$ 25,546	\$ 12,457	\$ 1,267	\$ 1,267	\$ 1,267	\$ 1,267	\$ 1,267

() Indicates red figure

NEW ENGLAND ELECTRIC SYSTEM
441 STUART STREET
BOSTON 16, MASSACHUSETTS

HARRY MANSON
PRESIDENT AND TREASURER

August 20, 1959

Mr. A. F. Huson, Chief
Office of Research and Service Company Regulation
Securities and Exchange Commission
Room 329
Washington 25, D. C.

Dear Mr. Huson:

On Monday when you visited with us, I promised to send you the data set forth below:

1. The expenses of New England Electric System (NEES), on a corporate basis, for the year 1958 totaled \$924,234. Of this total, about \$600,000 was for salaries and expenses. Salaries aggregated \$435,000, while expenses (annuity and group insurance premiums, general office rents, traveling expenses, etc.) aggregated about \$165,000.

2. Of the \$600,000 for salaries and expenses, it is my opinion that from 30% to 40% would be chargeable to NEES, while the balance would be chargeable to operating subsidiaries. The amount chargeable to subsidiaries would therefore be in the \$350,000 to \$425,000 range. I would expect that a substantial amount of this total would be chargeable to specific work for the operating subsidiaries. However, if it were allocated to the operating subsidiaries on the basis of their weighted gross revenue, the amounts chargeable to each operating company would be as set forth in the following tabulation.

<u>Company</u>	<u>Percentage Allocation</u>	<u>Allocation of \$350,000</u>	<u>Allocation of \$425,000</u>
Labore Electric Company	2.8%	\$ 9,800	\$ 11,900
Central Massachusetts Gas Company	1.0	3,500	4,250
State Electric Company	1.9	6,650	8,075
Gas Company	2.8	9,800	11,900
Gas and Electric Company	5.3	18,550	22,525
Essex Electric Company	11.5	40,250	48,875
Electric Power Company	1.1	3,850	4,675
Valley Gas Company	4.8	16,800	20,400
Warragansett Electric Company	13.5	47,250	57,375
England Power Company	19.2	67,200	81,600
Shore Gas Company	2.9	10,150	12,325
Hampton Electric Lighting Company	1.6	5,600	6,800

THE NAME "NEW ENGLAND ELECTRIC SYSTEM" MEANS THE TRUSTEE OR TRUSTEES FOR THE TIME BEING (AS TRUSTEE OR TRUSTEES NOT PERSONALLY) UNDER AN AGREEMENT AND DECLARATION OF TRUST DATED JANUARY 2, 1926, AS AMENDED, WHICH IS REFERRED TO, AND A COPY OF WHICH AS AMENDED HAS BEEN FILED WITH THE COMMISSIONER OF CORPORATIONS AND

<u>Company</u>	<u>Percentage Allocation</u>	<u>Allocation of \$350,000</u>	<u>Allocation of \$425,000</u>
Northampton Gas Light Company	.9%	\$ 3,150	\$ 3,825
Northern Berkshire Gas Company	2.7	9,450	11,475
Norwood Gas Company	.5	1,750	2,125
Quincy Electric Company	3.6	12,600	15,300
Southern Berkshire Power & Electric Company	1.2	4,200	5,100
Suburban Electric Company	5.6	19,600	23,800
Wachusett Gas Company	.8	2,800	3,400
Weymouth Light and Power Company	3.1	10,850	13,175
Worcester County Electric Company	13.2	46,200	56,100
	<u>100.0%</u>	<u>\$350,000</u>	<u>\$425,000</u>

2. I also want to confirm what I told you orally on Monday, namely, that this suggested change whereby personnel now on the NEES payroll would be transferred to the payroll of New England Power Service Company and a portion of their compensation and expenses charged to subsidiary operating companies will not in itself be a reason for seeking a rate increase. As I explained to you, one of the subsidiary operating companies, Weymouth Light and Power Company, filed new rate schedules with the Massachusetts Department of Public Utilities last week which are designed to increase revenue about \$370,000 a year and this is the only rate case now pending. Our labor agreements expire the end of this year and it may very well be that higher labor costs, higher municipal taxes and other expenses will make it necessary to seek rate increases by some companies, although we have nothing definite in mind at the present time.

Sincerely yours

Harry Hanson

Res. Exhibit 89

Summary Effect on Insurance Costs Which Would Arise
Through Severance of the Eight Gas Companies From The
New England Electric System Holding Company System

Company	Total Insurance Cost		Increase	
	Before Severance	After Severance	Amount	%
Central Massachusetts Gas Co	\$ 6,534	\$ 26,070	\$ 19,536	298.99%
Lawrence Gas Co	18,166	59,082	40,916	225.23
Lynn Gas Co	28,016	65,500	37,484	133.80
Mystic Valley Gas Co	50,050	146,835	96,785	193.38
Northampton Gas Co	5,885	21,709	15,824	268.89
North Shore Gas Co	22,511	67,433	44,922	199.56
Norwood Gas Co	3,061	14,220	11,159	364.55
Wachusett Gas Co	5,024	19,705	14,681	292.22
Total	\$139,247	\$420,554	\$281,307	202.02

Central Mass. Gas. Co.
(Company)

Data Re: Insurance Coverages in Effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958		Separate Company Coverage	
	Amounts or Limits of Liability	Cost	Amounts or Limits of Liability	Estimated Retention
All Risks Insurance.				
Contents of Motor Vehicles	\$100,000.	9	Would Not Insure	85
Destruction of Valuable Papers	300,000.	3	\$50,000.	
Automobile Physical Damage Insurance (Fire & Theft, etc.)	20,000	22	20,000	150
Bonds.				
Comprehensive Crime	\$300,000. }	30	\$300,000. }	2,400
Fidelity	100,000. }		100,000. }	
Money and Securities	100,000. }		100,000. }	
Forgery	10,000. }		10,000. }	
Collection Agents	100,000. }		100,000. Would not insure	1,100
Open Stock	Various	700		
Water Heater Warranty Bond				
Casualty Insurance.				
Workmen's Compensation	Statutory	700	Statutory	2,200
Personal Injury	one person - \$100,000.		\$100,000.	
	one accident - \$1,000,000.		\$1,000,000.	
Property Damage	per accident - \$2,000,000.	500	\$2,000,000.	8,700
	deductible - \$1,000.		\$1,000.	
Automobile Bodily Injury	one person - \$200,000.	550	\$200,000.	1,500
	two or more - \$1,000,000.		\$1,000,000.	
Automobile Property Damage per accident	- \$50,000.		\$50,000.	
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000.	50	\$4,000,000.	800
Legal Liability (Gas Explosion (property damage))	\$6,000,000.	1,700	\$2,000,000.	4,500
Explosion Insurance				
Boilers, Air Tanks, etc.	150,000	110	150,000	240
Direct Damage Gas Explosion (damage to company distribution System)	\$100,000.	25	\$100,000.	500
Extra Expense Insurance	67,000	270	67,000	500
Fire Insurance, Extended Coverages and Vandalism & Malicious Mischief	733,600	1,400	733,600	1,400
Rent Insurance	3,900	15	3,900	
Sprinkler Leakage Insurance	-	-	-	
Group Life, A.D.A.D. and A.&H.	Scheduled See Attached Announcement	Retention 450	Scheduled See Attached Announcement	Retention 1,680
Total		\$6,534		\$26,070

*First Year Retention \$3,900

April, 1960

Lawrence Gas Company
(Company)

Data Re: Insurance Coverages in Effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958		Separate Company Coverage	
	Amounts and Limits of Liability	Cost	Amounts or Limits of Liability	Estimated Cost
All Risks Insurance				
Contents of Motor Vehicles	\$100,000.	17	\$50,000. Would Not Insure	85
Destruction of Valuable Papers	300,000.	12		
Automobile Physical Damage Insurance (Fire & Theft, etc.)	38,300	60	38,300	270
Bonds				
Comprehensive Crime Fidelity Money and Securities Forgery Collection Agents Open Stock	\$300,000. } 100,000. } 100,000. } 10,000. } 100,000. }	80	\$300,000. } 100,000. } 100,000. } 10,000. } 100,000. }	2,740
Water Heater Warranty Bond	Various	1,450	Various	Would not insure 2,200
Liability Insurance				
Workmen's Compensation Personal Injury	Statutory one person - \$100,000. one accident - \$1,000,000.	2,200	Statutory \$100,000. \$1,000,000.	6,300
Property Damage	per accident - \$2,000,000. deductible - \$1,000.	1,500	\$2,000,000. \$1,000.	19,900
Automobile Bodily Injury	one person - \$200,000. two or more - \$1,000,000. per accident - \$50,000.	1,900	\$200,000. \$1,000,000. \$50,000.	4,500
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000.	140	\$4,000,000.	1,500
Legal Liability Gas Explosion (property damage)	\$6,000,000.	5,200	\$2,000,000.	12,500
Collision Insurance				
Boilers, Air Tanks, etc.	750,000	225	750,000	480
Direct Damage Gas Explosion (damage to company distribution system)	\$100,000.	90	\$100,000.	500
Expense Insurance	233,000	830	233,000	1,700
Insurance, Extended Coverages and Vandalism & Malicious Mischief	2,227,600	3,200	2,227,600	3,200
Insurance	-	-	-	-
Pipeline Leakage Insurance	6,600	7	6,600	7
Life, A.D.&D. and A.&H.	Scheduled See Attached Announcement	Retention 1,255	Scheduled See Attached Announcement	Retention 3,200*
Total		\$18,166		\$59,082

*First Year Retention \$7,480

Lynn Gas Company
(Company)

Data Re: Insurance Coverages in Effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958		Separate Company Coverage	
	Amounts or Limits of Liability	Cost	Amounts or Limits of Liability	Estimated
All Risks Insurance				
Contents of Motor Vehicles	\$100,000.	7	\$50,000. Would Not Insure	
Destruction of Valuable Papers	300,000.	-		
Automobile Physical Damage Insurance (Fire & Theft, etc.)	51,100	74	51,100	45
Bonds				
Comprehensive Crime	\$300,000.) 100,000.) 100,000.) 10,000.) 100,000.) -	45	\$300,000. }	2,100
Fidelity			100,000. }	
Money and Securities			100,000. }	
Forgery			10,000. }	
Collection Agents			100,000. }	
Open Stock			100,000. Would not insure	
Water Heater Warranty Bond	-	-	-	-
Casualty Insurance				
Workmen's Compensation	Statutory	4,000	Statutory	9,600
Personal Injury	one person - \$100,000.		\$100,000.	
	one accident - \$1,000,000.	4,000	\$1,000,000.	18,200
Property Damage	per accident - \$2,000,000.		\$2,000,000.	
	deductible - \$1,000.		\$1,000.	
Automobile Bodily Injury	one person - \$200,000.	1,500	\$200,000.	8,300
	two or more - \$1,000,000.		\$1,000,000.	
Automobile Property Damage per accident	- \$50,000.		\$50,000.	
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000.	300	\$4,000,000.	1,800
Legal Liability Gas Explosion (property damage)	\$6,000,000.	6,300	\$2,000,000.	9,000
Explosion Insurance				
Boilers, Air Tanks, etc.	6,000,000	270	6,000,000	1,050
Direct Damage Gas Explosion (damage to company distribution System)	\$100,000.	120	\$100,000.	500
Extra Expense Insurance	432,000	1,100	432,000	1,600
Fire Insurance, Extended Coverages and Vandalism & Malicious Mischief		9,000		9,000
Rents Insurance	-	-	-	-
Sprinkler Leakage Insurance	-	-	-	-
Group Life, A.D.&D. and A.&N.	Scheduled See Attached Announcement	Retention 1,300	Scheduled See Attached Announcement	Retention 3,800
Total		\$28,016		\$65,500

Myatic Valley Gas Co.
(Company)

Data Re: Insurance Coverages in Effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958		Separate Company Coverage	
	Amounts or Limits of Liability	Cost	Amounts or Limits of Liability	Estimated Cost
All Risks Insurance				
Contents of Motor Vehicles	\$100,000.	60	Would Not Insure	85
Destruction of Valuable Papers	300,000.	40		
Automobile Physical Damage Insurance (Fire & Theft, etc.)	139,000	160	139,000	920
Bonds				
Comprehensive Crime				
Fidelity	\$300,000.	240	\$300,000.	3,460
Money and Securities	100,000.		100,000.	
Forgery	100,000.		100,000.	
Collection Agents	10,000.		10,000.	
Open Stock	100,000.		100,000.	
Water Heater Warranty Bond	Various	4,400	Various	Would not insure 6,600
Casualty Insurance				
Workmen's Compensation	Statutory	5,600	Statutory	19,600
Personal Injury	one person - \$100,000.		\$100,000.	
Property Damage	one accident - \$1,000,000.	3,600	\$1,000,000.	45,300
	per accident - \$2,000,000.		\$2,000,000.	
	deductible - \$1,000.		\$1,000.	
Automobile Bodily Injury	one person - \$200,000.	4,100	\$200,000.	16,400
	two or more - \$1,000,000.		\$1,000,000.	
Automobile Property Damage per accident	- \$50,000.		\$50,000.	
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000.	490	\$4,000,000.	3,300
Legal Liability Gas Explosion (property damage)	\$6,000,000.	16,100	\$2,000,000.	30,000
Gas Insurance				
Boilers, Air Tanks, etc.	1,250,000	950	1,250,000	1,660
Direct Damage Gas Explosion (damage to company distribution system)	\$100,000.	270	\$100,000.	500
Extra Expense Insurance	566,000	2,200	566,000	3,300
Fire Insurance, Extended Coverages and Vandalism & Malicious Mischief	6,660,700	8,000	6,660,700	8,000
Flood Insurance	37,800	45	37,800	45
Plumber Leakage Insurance	8,200	25	8,200	25
Group Life, A.D.A.D. and A.A.H.	Scheduled See Attached Announcement	Retention 3,770	Scheduled See Attached Announcement	Retention 7,640*
Total \$50,050				\$146,835

*First Year Retention \$15,880

11, 1960

North Shore Gas Co.

(Company)

Data Re: Insurance Coverages in Effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958		Separate Company Coverage	
	Amounts or Limits of Liability	Cost	Amounts or Limits of Liability	Estimated
All Risks Insurance				
Contents of Motor Vehicles	\$100,000.	18	Would Not Insure	85
Destruction of Valuable Papers	300,000.	15		
Automobile Physical Damage Insurance (Fire & Theft, etc.)	34,400	30	34,400	350
Bonds				
Comprehensive Crime				
Fidelity	\$300,000.)	90	\$300,000.)	2,620
Money and Securities	100,000.)		100,000.)	
Forgery	100,000.)		100,000.)	
Collection Agents	10,000.)		10,000.)	
Open Stock	100,000.)		100,000.)	
Water Heater Warranty Bond	Various	2,500	Various	Would not insure 3,800
Casualty Insurance				
Workmen's Compensation	Statutory	1,700	Statutory	6,900
Personal Injury	one person - \$100,000. one accident - \$1,000,000.	1,300	\$100,000. \$1,000,000.	21,700
Property Damage	per accident - \$2,000,000. deductible - \$1,000.		\$2,000,000. \$1,000.	
Automobile Bodily Injury	one person - \$200,000. two or more - \$1,000,000.	1,400	\$200,000. \$1,000,000.	4,300
Automobile Property Damage	per accident - \$50,000.		\$50,000.	
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000.	180	\$4,000,000.	1,500
Legal Liability Gas Explosion (property damage)	\$6,000,000.	5,550	\$2,000,000.	12,500
Explosion Insurance				
Boilers, Air Tanks, etc.	1,000,000	490	1,000,000	970
Direct Damage Gas Explosion (damage to company distribution System)	\$100,000.	90	\$100,000.	500
Extra Expense Insurance	152,000	650	152,000	1,300
Fire Insurance, Extended Coverages and Vandalism & Malicious Mischief	3,635,900	7,000	3,635,900	7,000
Rents Insurance	37,740	120	37,740	120
Sprinkler Leakage Insurance	11,780	18	11,780	18
Group Life, A.D.&D. and A.&H.	Scheduled See Attached Announcement	Retention 1,360	Scheduled See Attached Announcement	Retention 3,770
Total		\$22,511		\$67,433

*First Year Retention \$8,530

Northampton Gas Light Co.
(Company)

Data Re: Insurance Coverages in Effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958		Separate Company Coverage	
	Amounts or Limits of Liability	Cost	Amounts or Limits of Liability	Estimated Cost
All Risk Insurance				
Contents of Motor Vehicles	\$100,000.	6	Would Not Insure	85
Destruction of Valuable Papers	300,000.	4		
Automobile Physical Damage Insurance (Fire & Theft, etc.)	19,800	23	19,800	110
Bonds				
Comprehensive Crime	\$300,000.) 100,000.) 100,000.) 10,000.) 100,000.) Various	33	\$300,000.) 100,000.) 100,000.) 10,000.) 100,000.) Various	2,400
Fidelity				
Money and Securities				
Forgery				
Collection Agents				
Open Stock				
Water Heater Warranty Bond	Various	560	Various	Would not insure 840
Liability Insurance				
Workmen's Compensation	Statutory	700	Statutory	1,900
Personal Injury	one person - \$100,000.	400	\$100,000.	7,000
Property Damage	one accident - \$1,000,000.		\$1,000,000.	
	per accident - \$2,000,000.	500	\$2,000,000.	970
	deductible - \$1,000.		\$1,000.	
Automobile Bodily Injury	one person - \$200,000.	45	\$200,000.	800
	two or more - \$1,000,000.		\$1,000,000.	
Automobile Property Damage per accident	\$50,000.	1,400	\$50,000.	3,500
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000.		\$4,000,000.	
Legal Liability Gas Explosion (property damage)	\$6,000,000.		\$2,000,000.	
Explosion Insurance				
Boilers, Air Tanks, etc.	200,000	180	200,000	390
Direct Damage Gas Explosion (damage to company distribution System)	\$100,000.	20	\$100,000.	500
Extra Expense Insurance	58,000	200	58,000	400
Fire Insurance, Extended Coverages and Vandalism & Malicious Mischief	1,142,100	1,470	1,142,100	1,470
Flood Insurance	46,400	44	46,400	44
Fire Sprinkler Leakage Insurance	-	-	-	-
Group Life, A.D.&D. and A.&H.	Scheduled See Attached Announcement	Retention 300	Scheduled See Attached Announcement	Retention* 1,300
Total		\$5,885	\$ 21,709	

*First Year Retention \$2,900

Norwood Gas Company
(Company)

Data Re: Insurance Coverages in Effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958		Separate Company Coverage	
	Amounts or Limits of Liability	Cost	Amounts or Limits of Liability	Estimated Retention
All Risks Insurance				
Contents of Motor Vehicles	\$100,000.	5	Would Not Insure \$50,000.	85
Destruction of Valuable Papers	300,000.	2		
Automobile Physical Damage Insurance (Fire & Theft, etc.)	11,200	14	11,200	80
Bonds				
Comprehensive Crime	\$300,000. } 100,000. } 100,000. } 10,000. } 100,000. }	21	\$300,000. } 100,000. } 100,000. } 10,000. } 100,000. }	2,500
Fidelity				
Money and Securities				
Forgery				
Collection Agents				
Open Stock	100,000.	290	100,000. Would not insure Various	430
Water Heater Warranty Bond	Various			
Casualty Insurance				
Workmen's Compensation	Statutory	300	Statutory	800
Personal Injury	one person - \$100,000.		\$100,000.	
	one accident - \$1,000,000.		\$1,000,000.	
Property Damage	per accident - \$2,000,000.	300	\$2,000,000.	3,000
	deductible - \$1,000.		\$1,000.	
Automobile Bodily Injury	one person - \$200,000.	300	\$200,000.	1,300
	two or more - \$1,000,000.		\$1,000,000.	
Automobile Property Damage per accident	- \$50,000.		\$50,000.	
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000.	18	\$4,000,000.	800
Legal Liability (gas explosion property damage)	\$6,000,000.	840	\$2,000,000.	2,500
Explosion Insurance				
Boilers, Air Tanks, etc.	50,000	40	50,000	60
Direct Damage Gas Explosion (damage to company distribution system)	\$100,000.	12	\$100,000.	500
Extra Expense Insurance	59,000	290	59,000	580
Fire Insurance, Extended Coverages and Vandalism & Malicious Mischief	113,150	460	113,150	160
Rents Insurance	3,760	9	3,760	
Sprinkler Leakage Insurance	-	-	-	
Group Life, A.D.A.D. and A.A.H.	Scheduled See Attached Announcement	Retention 160	Scheduled See Attached Announcement	Retention 1,090
Total		\$3,061		\$14,220

Wachusett Gas Company
(Company)

Data Re: Insurance Coverages in Effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958		Separate Company Coverage	
	Amounts or Limits of Liability	Cost	Amounts or Limits of Liability	Estimated Cost
All Risks Insurance.				
Contents of Motor Vehicles	\$100,000.	8	Would Not Insure	85
Destruction of Valuable Papers	300,000.	3		
Automobile Physical Damage Insurance (Fire & Theft, etc.)	15,800	19	15,800	130
Bonds				
Comprehensive Crime				
Fidelity	\$300,000.)	21	\$300,000.)	2,380
Money and Securities	100,000.)		100,000.)	
Forgery	100,000.)		100,000.)	
Collection Agents	10,000.)		10,000.)	
Open Stock	100,000.)		100,000.)	
Water Heater Warranty Bond	Various	530	Various	800
Casualty Insurance.				
Workmen's Compensation	Statutory	700	Statutory	1,600
Personal Injury	one person - \$100,000.		\$100,000.	
Property Damage	one accident - \$1,000,000.	400	\$1,000,000.	5,970
	per accident - \$2,000,000.		\$2,000,000.	
	deductible - \$1,000.		\$1,000.	
Automobile Bodily Injury	one person - \$200,000.	600	\$200,000.	1,600
	two or more - \$1,000,000.		\$1,000,000.	
Automobile Property Damage per accident	- \$50,000.		\$50,000.	
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000.	21	\$4,000,000.	800
Legal Liability Gas Explosion (property damage)	\$6,000,000.	1,360	\$2,000,000.	3,000
Explosion Insurance				
Boilers, Air Tanks, etc.	100,000	50	100,000	110
Direct Damage Gas Explosion (damage to company distribution system)	\$100,000.	22	\$100,000.	500
Extra Expense Insurance	46,000	190	46,000	400
Fire Insurance, Extended Coverages and Vandalism & Malicious Mischief	491,600	870	491,600	870
Flood Insurance	-	-	-	-
Fire Sprinkler Leakage Insurance	-	-	-	-
Group Life, A.D.&D. and A.&H.	Scheduled See Attached Announcement	Retention 230	Scheduled See Attached Announcement	Retention* 1,460

Total \$5,024

\$19,705

April, 1960

*First Year Retention \$2,660

SCHEDULE OF INSURANCE

	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
Rate of Annual Earnings of.....	Less than \$1,501.00	\$1,501.00 but less than \$2,501.00	\$2,501.00 but less than \$3,501.00	\$3,501.00 but less than \$5,001.00	\$5,001.00 but less than \$7,501.00	\$7,501.00 but less than \$10,001.00	\$10,001.00 or more

1. Life Insurance

A. DEATH BENEFIT

Payable in Lump Sum at death of employee to the named beneficiary.....	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
	\$1,000.00	\$2,000.00	\$3,000.00	\$5,000.00	\$10,000.00	\$15,000.00	\$19,500.00

OR

B. TOTAL AND PERMANENT DISABILITY BENEFIT

	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
1. Amount of Monthly Instalments.....	\$51.04	\$52.50	\$54.00	\$90.00	\$180.00	\$270.00	\$351.00
2. Number of Months.....	20	40	60	60	60	60	60

If you become totally and permanently disabled while insured under the Plan and prior to age 60, through either sickness or accident, the Life Insurance will be payable to you, during the continuance of such disability in monthly instalments as indicated. These amounts will be paid to the insured employee immediately upon receipt of due proof of total and permanent disability by the Insurance Company.

2. Accidental Death and Dismemberment Insurance—Additional Benefits

A. ACCIDENTAL DEATH BENEFIT.....	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
	\$1,000.00	\$2,000.00	\$3,000.00	\$4,000.00	\$5,000.00	\$5,000.00	\$5,000.00

Payable in lump sum at death resulting from an accident in addition to Life Insurance Benefits.

B. ACCIDENTAL DISMEMBERMENT BENEFIT	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
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1. Loss of Two Major Members.....	\$1,000.00	\$2,000.00	\$3,000.00	\$4,000.00	\$5,000.00	\$5,000.00	\$5,000.00
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Payable in lump sum in addition to total and permanent disability benefits of the Life Insurance Coverage, should an employee become totally disabled through loss by accident of both eyes, both hands, both feet, one hand and one foot or similar dismemberment.

2. Loss of One Major Member.....	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
	\$500.00	\$1,000.00	\$1,500.00	\$2,000.00	\$2,500.00	\$2,500.00	\$2,500.00

Payable in lump sum should the insured employee lose one member of his body by accident, for instance one hand, one foot or one eye.

NOTE—Benefits outlined under ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE are payable only when Accidental Death or Dismemberment occurs within 90 days from date of accident.

3. Weekly Sickness and Non-Occupational Accident Benefits	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
	\$10.00	\$15.00	\$20.00	\$25.00	\$30.00	\$30.00	\$30.00

Payable for each full day of disability after attendance by a licensed practicing physician beginning with the eighth day of disability for a period of twenty-six weeks for any one sickness or any one non-occupational accident. The period of disability may be either continuous or intermittent. No weekly benefits are payable for any period of disability resulting from injuries arising out of, or in the course of, any employment for wage or profit.

4. Weekly Cost of All Above Insurance to Each Employee	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
	25 cents	50 cents	75 cents	\$1.25	\$2.35	\$3.04	\$3.66

5. Automatic Increases

In addition to the preceding amounts, each employee will receive on the anniversary date of his entrance into the Group Insurance Plan an increase of \$100.00 of Life Insurance and \$100.00 Accidental Death and Dismemberment Insurance until five such increases have been made. The entire cost of these increases will be paid by the employer.

6. Optional Methods of Payment

The amounts designated as payable in a lump sum under the Life Insurance will, if you so elect, or if after your death your beneficiary elects, be paid over a period in monthly instalments instead of in a single payment.

SEE REVERSE OF THIS PAGE FOR SPECIAL FEATURES OF THIS PLAN

RESPONDENTS' EXHIBIT NO. 90

MASSACHUSETTS GAS COMPANIES 1958 OPERATING EXPENSES PER CUBIC FOOT (EXCLUDING PRODUCTION AND PURCHASED GAS)

Company	Transmission and Distribution			Utilization (a)			Commercial			New Business and Welfare			Administrative and General			Total-Actual			Total-Pro Forma (b)		
	Amount	Per Cu. Ft.	Per Cu. Ft.	Amount	Per Cu. Ft.	Per Cu. Ft.	Amount	Per Cu. Ft.	Per Cu. Ft.	Amount	Per Cu. Ft.	Per Cu. Ft.	Amount	Per Cu. Ft.	Per Cu. Ft.	Amount	Per Cu. Ft.	Per Cu. Ft.	Amount	Per Cu. Ft.	Per Cu. Ft.
New England Electric System	9,595	\$ 72.413	\$ 7.55	\$ 39,691	\$ 44.14	\$ 57,977	\$ 64.04	\$ 61,102	\$ 6.37	\$ 31,422	\$ 31.27	\$ 117,187	\$ 52,000	\$ 31,422	\$ 6.65	\$ 265,370	\$ 34.02	\$ 123,770	\$ 44.17	\$ 44.17	\$ 44.17
Mass. Gas Companies	32,801	212,682	6.49	107,878	3.39	124,791	3.80	211,570	6.15	95,125	2.97	1,067,608	150,000	95,125	6.65	1,067,608	150,000	95,125	6.65	1,067,608	150,000
Lawrence Gas	10,922	274,044	6.70	85,990	2.40	190,218	4.65	350,487	3.48	134,895	3.29	579,347	171,357	134,895	5.21	1,047,459	150,000	134,895	5.21	1,047,459	150,000
Lynn (Gas Dept.)	98,773	677,680	6.86	434,899	4.20	479,913	4.46	537,692	5.24	276,683	2.80	1,240,030	150,000	276,683	5.10	2,770,212	290,000	276,683	5.10	2,770,212	290,000
Lytic Valley Gas	8,023	61,124	7.62	30,237	3.77	28,699	3.58	39,643	4.94	27,801	3.47	147,664	60,000	27,801	7.85	261,287	33,133	27,801	7.85	261,287	33,133
Northampton Gas	33,113	179,262	5.41	72,820	2.40	158,216	4.78	191,614	5.79	128,968	3.49	529,565	212,000	128,968	10.93	1,076,637	150,000	128,968	10.93	1,076,637	150,000
North Shore Gas	4,190	26,695	5.95	17,892	3.46	25,556	5.49	27,413	6.11	11,556	2.51	87,342	36,000	11,556	7.50	157,898	35,117	11,556	7.50	157,898	35,117
Norwood Gas	8,048	65,136	8.12	25,401	3.36	41,066	5.10	15,939	5.71	13,006	2.24	117,189	36,000	13,006	7.50	258,911	31,913	13,006	7.50	258,911	31,913
Quincy Gas	235,765	1,569,456	6.66	794,808	3.37	1,106,494	4.69	1,245,500	5.28	724,366	3.07	3,106,922	1,140,357	724,366	5.61	6,782,833	28,668	724,366	5.61	6,782,833	28,668
NEES Mass. Gas Companies	24,963	150,219	6.02	104,368	4.18	179,678	7.20	108,347	4.34	61,117	2.45	1,077,017	132,132	61,117	8.56	1,138,134	132,132	61,117	8.56	1,138,134	132,132
Average	35,218	3,519,901	11.63	1,711,223	5.70	2,071,640	6.79	1,305,726	4.28	682,000	2.77	3,679,917	1,240,700	682,000	8.56	4,361,617	132,132	682,000	8.56	4,361,617	132,132
Other Non-affiliated Mass. Gas Co's. with over 5,000	5,455	447,739	8.62	215,160	4.15	383,049	6.99	211,829	4.16	91,883	1.77	782,138	213,131	91,883	8.56	1,174,021	213,131	91,883	8.56	1,174,021	213,131
Marblehead Gas	5,455	75,095	13.77	37,819	6.18	50,349	10.70	134,134	20.93	6,216	1.14	163,090	163,118	6,216	20.75	1,047,769	163,118	6,216	20.75	1,047,769	163,118
Boston Gas	49,653	290,296	5.85	102,318	2.96	113,605	4.15	135,211	12.59	99,391	2.87	511,793	153,124	99,391	5.80	1,669,785	153,124	99,391	5.80	1,669,785	153,124
Brookline-Boston Gas	34,576	181,404	5.25	31,894	2.91	19,000	4.47	14,679	4.07	23,900	2.10	162,067	166,019	23,900	8.44	330,913	166,019	23,900	8.44	330,913	166,019
Buzzards Bay Gas	19,786	88,882	8.10	91,429	4.42	130,361	6.59	106,632	5.39	75,860	2.48	392,057	96,000	75,860	11.13	829,158	96,000	75,860	11.13	829,158	96,000
Fall River Gas	29,206	124,469	4.26	103,571	3.55	192,110	6.58	250,265	8.57	50,687	1.74	490,834	171,701	50,687	9.19	989,168	171,701	50,687	9.19	989,168	171,701
Fitchburg (Gas Dept.)	43,173	353,525	8.19	115,313	2.67	116,685	3.10	203,050	4.70	113,289	3.32	521,276	177,738	113,289	14.64	1,424,133	177,738	113,289	14.64	1,424,133	177,738
Haverhill Gas	66,179	503,986	7.62	159,535	6.94	128,123	6.47	111,206	6.67	163,650	2.47	1,049,902	290,000	163,650	9.01	2,593,052	290,000	163,650	9.01	2,593,052	290,000
Lowell Gas	77,940	1,173,322	15.05	447,523	5.74	536,588	6.68	775,595	9.95	356,196	4.57	1,443,519	492,129	356,196	7.64	3,684,118	492,129	356,196	7.64	3,684,118	492,129
New Bedford (Gas Dept.)	719,100	7,113,527	9.93	3,707,527	5.36	4,584,182	6.37	4,383,582	6.10	2,108,044	2.93	10,165,659	3,240,340	2,108,044	6.69	26,738,537	3,240,340	2,108,044	6.69	26,738,537	3,240,340
Springfield Gas	954,865	\$ 7,112,993	\$ 7.12	\$ 4,502,335	\$ 4.72	\$ 5,690,676	\$ 5.96	\$ 5,690,022	\$ 5.90	\$ 2,832,410	\$ 2.97	\$ 13,955,951	\$ 4,389,697	\$ 2,832,410	\$ 6.42	\$ 43,813,501	\$ 4,389,697	\$ 2,832,410	\$ 6.42	\$ 43,813,501	\$ 4,389,697
Worcester Gas																					
Other Companies Average																					
Average of all above Mass. Gas Companies																					

(a) Net including Amortization of Conversion Costs as erident and timing of conversion to High BTU gas is not consistent.

(b) Figures in these columns are actual expenses plus additional estimated expenses if NEES gas companies were independently operated.

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RESPONDENTS' EXHIBIT NO. 92

Res. Ex. No. 7/72

Gas Companies

Data Re: Insurance Coverages in effect (Except Group Annuity)

Type of Insurance	System Coverages Year 1958 Combined		Under Common Control i.e., If Majority Voting Stock Owned by Same Interest		Independently Owned Companies	
	Amounts or Limits of Liability	Cost	Amounts or Limits of Liability	Estimated Cost	Amounts or Limits of Liability	Estimated Cost
<u>All Risks Insurance</u>						
Contents of Motor Vehicles	\$100,000	130	Would not insure		Would not insure	
Destruction of Valuable Papers	300,000	79	50,000	79	50,000	680
Automobile Physical Damage Insurance (Fire & Theft, etc.)	\$329,600	1,02	329,600	1,300	329,600	2,460
<u>Bonds</u>						
Comprehensive Crime		560		6,700		30,610
Fidelity	\$300,000		300,000		300,000	
Money and Securities	100,000		100,000		100,000	
Forgery	100,000		100,000		100,000	
Collection Agents	10,000		10,000		10,000	
Open Stock	100,000		100,000		100,000	
Water Heater Warranty Bond	Various	10,430		Would not insure 10,430		Would not insure 15,770
<u>Casualty Insurance</u>						
Workmen's Compensation	Statutory	15,900	Statutory	21,700*	Statutory	48,900
Personal Injury	one person - \$100,000		100,000		100,000	
Property Damage	one accident - \$1,000,000	12,000	1,000,000	114,600	1,000,000	129,770
	per accident - \$2,000,000		2,000,000		2,000,000	
	deductible - \$1,000		1,000		1,000	
Automobile Bodily Injury	one person - \$200,000	10,850	200,000	36,170	200,000	39,170
	two or more - \$1,000,000		1,000,000		1,000,000	
Automobile Property Damage per accident	- \$50,000		50,000		50,000	
Excess of primary (Umbrella excluding gas explosion property damage)	\$4,000,000	1,244	4,000,000	8,000	4,000,000	11,300
Legal Liability Gas Explosion (property damage)	\$6,000,000	38,450	6,000,000	38,450	2,000,000	77,500
<u>Explosion Insurance</u>						
Boilers, Air Tanks, etc.	\$1,250,000	2,315	1,250,000	4,100	1,250,000	4,991
Direct Damage Gas Explosion (damage to company distribution System)	\$100,000	649	100,000	649	100,000	4,000
<u>Extra Expense Insurance</u>	1,613,000	5,730	1,613,000	5,730	1,613,000	9,780
<u>Fire, Insurance, Extended Coverages and Vandalism & Malicious Mischief</u>	22,735,470	31,400	22,735,470	31,400	22,735,470	31,400
<u>Bonds Insurance</u>	129,600	233	129,600	233	129,600	233
<u>Brinkler Leakage Insurance</u>	26,580	50	26,580	50	26,580	50
<u>Group Life, A.D.&D. and A.&H.</u>	Scheduled See Attached Announcement	Retention 8,825	Scheduled See Attached Announcement	Retention 14,160**	Scheduled See Attached Announcement	Retention 23,940**
Total		\$139,247			\$293,751	\$420,554

*Minimum \$9,800 - Maximum \$66,200

**First year retention - \$26,700

***First year retention - \$43,280

SCHEDULE OF INSURANCE

	CLASS "A" Less than \$1,501.00	CLASS "B" \$1,501.00 but less than \$2,501.00	CLASS "C" \$2,501.00 but less than \$3,501.00	CLASS "D" \$3,501.00 but less than \$5,001.00	CLASS "E" \$5,001.00 but less than \$7,501.00	CLASS "F" \$7,501.00 but less than \$10,001.00	CLASS "G" \$10,001.00 or more
Rate of Annual Earnings of.....							

1. Life Insurance

A. DEATH BENEFIT

Payable in Lump Sum at death of employee to the named beneficiary.....	CLASS "A" \$1,000.00	CLASS "B" \$2,000.00	CLASS "C" \$3,000.00	CLASS "D" \$5,000.00	CLASS "E" \$10,000.00	CLASS "F" \$15,000.00	CLASS "G" \$19,500.00
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OR

B. TOTAL AND PERMANENT DISABILITY BENEFIT

1. Amount of Monthly Instalments.....	CLASS "A" \$51.04	CLASS "B" \$52.50	CLASS "C" \$54.00	CLASS "D" \$90.00	CLASS "E" \$180.00	CLASS "F" \$270.00	CLASS "G" \$351.00
2. Number of Months.....	20	40	60	60	60	60	60

If you become totally and permanently disabled while insured under the Plan and prior to age 60, through either sickness or accident, the Life Insurance will be payable to you, during the continuance of such disability in monthly instalments as indicated. These amounts will be paid to the insured employee immediately upon receipt of due proof of total and permanent disability by the Insurance Company.

2. Accidental Death and Dismemberment Insurance—Additional Benefits

A. ACCIDENTAL DEATH BENEFIT.....	CLASS "A" \$1,000.00	CLASS "B" \$2,000.00	CLASS "C" \$3,000.00	CLASS "D" \$4,000.00	CLASS "E" \$5,000.00	CLASS "F" \$5,000.00	CLASS "G" \$5,000.00
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Payable in lump sum at death resulting from an accident *in addition* to Life Insurance Benefits.

B. ACCIDENTAL DISMEMBERMENT BENEFIT	CLASS "A"	CLASS "B"	CLASS "C"	CLASS "D"	CLASS "E"	CLASS "F"	CLASS "G"
1. Loss of Two Major Members.....	\$1,000.00	\$2,000.00	\$3,000.00	\$4,000.00	\$5,000.00	\$5,000.00	\$5,000.00

Payable in lump sum *in addition* to total and permanent disability benefits of the Life Insurance Coverage, should an employee become totally disabled through loss by accident of both eyes, both hands, both feet, one hand and one foot or similar dismemberment.

2. Loss of One Major Member.....	CLASS "A" \$500.00	CLASS "B" \$1,000.00	CLASS "C" \$1,500.00	CLASS "D" \$2,000.00	CLASS "E" \$2,500.00	CLASS "F" \$2,500.00	CLASS "G" \$2,500.00
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Payable in lump sum should the insured employee lose one member of his body by accident, for instance one hand, one foot or one eye.

NOTE—Benefits outlined under ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE are payable only when Accidental Death or Dismemberment occurs within 90 days from date of accident.

3. Weekly Sickness and Non-Occupational Accident Benefits	CLASS "A" \$10.00	CLASS "B" \$15.00	CLASS "C" \$20.00	CLASS "D" \$25.00	CLASS "E" \$30.00	CLASS "F" \$30.00	CLASS "G" \$30.00
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Payable for each full day of disability after attendance by a licensed practicing physician beginning with the eighth day of disability for a period of twenty-six weeks for any one sickness or any one non-occupational accident. The period of disability may be either continuous or intermittent. No weekly benefits are payable for any period of disability resulting from injuries arising out of, or in the course of, any employment for wage or profit.

4. Weekly Cost of All Above Insurance to Each Employee	CLASS "A" 25 cents	CLASS "B" 50 cents	CLASS "C" 75 cents	CLASS "D" \$1.25	CLASS "E" \$2.35	CLASS "F" \$3.04	CLASS "G" \$3.66
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5. Automatic Increases

In addition to the preceding amounts, each employee will receive on the anniversary date of his entrance into the Group Insurance Plan an increase of \$100.00 of Life Insurance and \$100.00 Accidental Death and Dismemberment Insurance until five such increases have been made. The entire cost of these increases will be paid by the employer.

6. Optional Methods of Payment

The amounts designated as payable in a lump sum under the Life Insurance will, if you so elect, or if after your death your beneficiary elects, be paid over a period in monthly instalments instead of in a single payment.

SEE REVERSE OF THIS PAGE FOR SPECIAL FEATURES OF THIS PLAN

NEW ENGLAND ELECTRIC SYSTEM
441 STUART STREET
BOSTON 16, MASSACHUSETTS

HARRY HANSON
VICE PRESIDENT AND TREASURER

January 4, 1961

Mr. Samuel Gishman
Assistant Chief Financial Analyst
Branch of Public Utility Regulation
Securities and Exchange Commission
Washington 25, D. C.

Dear Mr. Gishman:

This is in answer to your telephone inquiry to Mr. R. B. Dunn concerning (1) an explanation of the difference between the two figures relating to insurance in Exhibit 91 and how the insurance cost was arrived at and (2) additional information as to blanket coverages and allocation of costs with respect to insurance shown in Exhibit 89.

With respect to (1) above, the difference between the figure of \$127,000 shown in paragraph A at the top of page 38 in Exhibit 91 and the \$120,600 in the last column on page 40 represents the amount of insurance savings which would affect other than income accounts in the year 1958. The figure of \$127,000 represents the gross savings in insurance costs which would be realized under combined operation as compared with independent operations (see Exhibit 92).

With respect to (2) above, all of the policies shown in Exhibit 89 were systemwide blanket policies with the exception of the Water Heater Warranty Bond, Legal Liability Gas Explosion, Direct Damage Gas Explosion, and Extra Expense Insurance which were blanket policies for the gas companies only, and a few small policies written for Lynn Gas and Electric Company prior to acquisition still in effect. However, certain of the blanket policies were not applicable to every company since in the case of certain companies no risk or exposure was involved. Of course, in this event no part of the cost was allocated to such companies.

We are attaching a schedule showing the allocation of costs for each of the coverages between gas, electric and other companies, and the basis for allocation.

Sincerely yours

s/ Harry Hanson

Enc.

NEW ENGLAND ELECTRIC SYSTEM and SUBSIDIARIES

Insurance Schedule - Year 1958

	Gas Companies	Electric Companies	Other Companies	Total	Basis of Allocation
1. Contents of Motor Vehicles	\$ 130	\$ 535	\$ 35	\$ 700	A
2. Destruction of Valuable Papers	79	600	120	799	B
3. Automobile Physical Damage Insurance	402	2,760	390	3,552	C
4. Comprehensive Crime	560	3,700	665	4,925	D
5. Water Heater Warranty Bond	10,430	-	-	10,430	E
6. Primary Liability Insurance					
Workmen's Compensation					B
Personal Injury and Property Damage					B
Automobile Bodily Injury and	38,750	278,400	52,750	369,900	
Automobile Property Damage					
7. Excess of primary	1,244	9,000	1,200	11,444	A
8. Legal Liability Gas Explosion	38,450	-	-	38,450	B
9. Boilers, Air Tanks, etc.	2,315	25,800	40	28,155	F
10. Direct Damage Gas Explosion	649	-	-	649	G
11. Extra Expense Insurance	5,730	-	-	5,730	H
12. Fire Insurance, Extended Coverages and Vandalism, etc.	31,400	136,000	660	168,060	I
13. Rents Insurance	233	1,580	-	1,813	J
14. Sprinkler Leakage Insurance	50	1,020	-	1,070	I
15. Group Life, A.D.&D. and A.&H. (Retention)	8,825	50,660	9,765	69,250	K
	\$139,247	\$510,055	\$ 65,625	\$714,927	

- (A) Number of vehicles
 (B) Payroll
 (C) Valuation of vehicles
 (D) Number of employees
 (E) Number of water heaters installed
 (F) Gross revenues
 (G) Nature and amount of equipment
 (H) Number of meters
 (I) Company's determination of exposure and applicable rates
 (J) Property valuations - actual exposure and applicable rates
 (K) Gross premiums paid

Res. Ex. No. # 93

GROSS INCOME OF AFFILIATED GAS COMPANIES
BEFORE AND AFTER SEVERANCE OF THE MASSACHUSETTS GAS BUSINESS
(ASSUMING INDEPENDENT OPERATION OF GAS COMPANIES)

TWELVE MONTHS ENDED DECEMBER 31, 1958

GROSS INCOME AFTER INCOME TAX AND BEFORE INTEREST AND DIVIDENDS

(1)	Before Severance \$ (2)	After Severance \$ (3)	Reduction \$ (4)	Per Cent % (5)
Central Massachusetts Gas Company	181,000	65,500	115,500	63.81
Lawrence Gas Company	377,000	250,900	126,100	33.45
Lynn Gas and Electric Company-Gas Department	424,800	213,500	211,300	49.74
Kystic Valley Gas Company	1,312,400	1,039,300	273,100	20.81
North Shore Gas Company	461,600	352,000	109,600	23.74
Northampton Gas Light Company	105,400	51,400	54,000	51.23
Norwood Gas Company	71,500	56,400	15,100	21.12
Wachusett Gas Company	113,200	60,300	52,900	46.73
Total Eight Gas Companies	3,046,900	2,089,300	957,600	31.43

() Indicates Red Figure

Res. Ex. No. #94

NEW ENGLAND ELECTRIC SYSTEMNET INCOME OF AFFILIATED GAS COMPANIESBEFORE AND AFTER SEVERANCE OF THE MASSACHUSETTS GAS BUSINESS(ASSUMING INDEPENDENT OPERATION OF GAS COMPANIES)TWELVE MONTHS ENDED DECEMBER 31, 1958NET INCOME AVAILABLE FOR DIVIDENDS

	Before Severance	After Severance	Reduction	Per Cent
(1)	\$ (2)	\$ (3)	\$ (4)	% (5)
Central Massachusetts Gas Company	143,100	27,600	115,500	80.71
Lawrence Gas Company	237,200	111,100	126,100	53.16
Lynn Gas and Electric Company-Gas Department	344,900	133,600	211,300	61.26
Mystic Valley Gas Company	847,000	573,900	273,100	32.24
North Shore Gas Company	274,700	165,100	109,600	39.90
Northampton Gas Light Company	79,200	25,200	54,000	68.18
Norwood Gas Company	45,700	30,600	15,100	33.04
Wachusett Gas Company	86,500	33,600	52,900	61.16
Total Eight Gas Companies	2,058,300	1,100,700	957,600	46.52

NEW ENGLAND ELECTRIC SYSTEM
441 STUART STREET
BOSTON 16, MASSACHUSETTS

HARRY HANSON
VICE PRESIDENT AND TREASURER

June 21, 1960

Mr. Francis H. Spencer
Division of Corporate Regulation
Securities and Exchange Commission
Washington 25, D. C.

Dear Mr. Spencer:

Re: File No. 59-102

Pursuant to the request of Mr. Leon Ware, we are submitting herewith schedules showing a breakdown of amounts in the Ebasco studies of the changes in costs of the eight Massachusetts gas companies of NEES resulting from severance, together with an estimated distribution of increases in operating expenses by major accounting classifications. In view of the fact that no estimate has been made of the allocation of charges of the "Central Organization" under combined operation among the eight companies, totals only have been included for combined operation.

In addition, since some of the increases in operating expenses are considered allocable to production, and since production expenses and purchased gas were excluded from the summary tabulation of 1958 operating expenses of Massachusetts gas companies which was submitted as Respondent's Exhibit 90, it would appear that the column entitled "Total-Pro Forma" of that exhibit should be revised to exclude the amount allocable to production. A revised summary tabulation is enclosed.

We are sending you herewith four copies of each of the above-mentioned schedules.

Sincerely yours

s/ Harry Hanson

Enclosures

EIGHT MASSACHUSETTS GAS COMPANIESSUMMARY OF NET EFFECT OF SEVERANCE UPON INCOME ACCOUNTS

	Other Operating Revenue	Operating Expenses (See Attached)	Operating Revenue Deductions			Total Operating Revenue Deductions	Nonoperating Income	Total Adjustment of Gross Income Before F.I.F.
			Depreciation	Taxes				
<u>Independent Operation</u>								
Central Massachusetts Gas Company	\$ (800)	\$ 97,400	\$ 2,500	\$ 1,000	\$ 100,000	\$ (800)	\$	\$ 102,500
Lawrence Gas Company	(1,200)	195,300	3,500	2,800	201,600	(6,800)		209,600
Lynn Gas Department	2,100	336,500	5,200	26,000	367,700	(1,700)		367,300
Mystic Valley Gas Company	(3,000)	396,100	7,000	4,600	407,700	1,000		409,700
North Shore Gas Company	(18,500)	157,100	2,000	1,800	160,900	4,800		174,600
Northampton Gas Light Company	(23,400)	76,500	1,500	800	78,800	(700)		102,900
Norwood Gas Company	-	30,100	500	300	30,900	1,000		29,900
Wachusett Gas Company	-	96,800	3,000	1,400	101,200	2,700		98,500
Total - Independent Operation	(44,800)	1,385,800	25,200	38,700	1,449,700	(500)		1,495,000
<u>Combined Operation</u>	\$ (38,000)	\$ 1,065,500	\$ 25,200	\$ 36,400	\$ 1,127,100	\$ (500)		\$ 1,155,600

() Denotes Decrease

EIGHT MASSACHUSETTS GAS COMPANIESESTIMATED DISTRIBUTION OF INCREASES IN OPERATING EXPENSES RESULTING FROM SEVERANCE

<u>Independent Operation</u>	<u>Production</u>	<u>Distribution</u>	<u>Utilization</u>	<u>Commercial</u>	<u>New Business</u>	<u>General and Administrative</u>	<u>Total</u>
Central Massachusetts Gas Company	\$ 2,500	\$11,200	\$ 800	\$ 11,100	\$ (900)	\$ 72,700	\$ 97,400
Lawrence Gas Company	6,100	20,500	2,200	12,600	13,000	140,900	195,300
Lynn Gas Department	6,300	25,500	25,200	125,700	17,100	136,700	336,500
Mystic Valley Gas Company	15,700	39,000	4,900	109,300	10,700	216,500	396,100
North Shore Gas Company	9,600	31,600	5,400	25,100	8,200	77,200	157,100
Northampton Gas Light Company	1,700	9,200	3,000	25,600	(800)	37,800	76,500
Norwood Gas Company	(400)	(900)	(200)	300	(400)	31,700	30,100
Wachusett Gas Company	3,100	10,400	1,700	14,100	(800)	68,300	96,800
Total - Independent Operation	44,600	146,500	43,000	323,800	46,100	761,800	1,385,800
Combined Operation	\$22,500	\$ 78,700	\$11,200	\$323,500	\$(2,200)	\$601,800	\$1,065,500

() Denotes Decrease

5/20/60

**MANAGEMENT GAS COMPANIES
1953 OPERATING EXPENSES PER CUMULATIVE
(EXCLUDING PRODUCTION AND PURCHASED GAS)**

Company	Transmission and Distribution			Utilization(a)			Commercial			New Business			Residential and Welfare			Administrative and General			Total-Actual			Total-Pro Forma (b)		
	22/31/53	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	Amount	Per Cust.	
New England Electric System																								
Mass. Gas Companies:																								
Central Mass. Gas	9,595	\$ 72,443	7.55	\$ 39,493	\$4.24	\$ 51,977	\$6.04	\$ 61,102	\$6.37	\$ 11,422	\$3.27	\$ 52,000	\$ 31,422	\$ 61,765	6.65	\$ 326,370	\$34.02	\$ 121,270	\$13.21					
Lawrence Gas	32,801	212,882	6.49	107,878	3.29	124,793	3.80	211,570	6.45	95,485	2.91	108,668	35,405	123,183	4.97	915,759	27.91	1,104,929	33.79					
Lynn (Gas Dept.)	10,922	274,064	6.70	85,990	2.10	150,218	4.65	150,497	3.68	134,805	3.29	519,347	171,357	134,805	5.21	1,043,759	25.63	1,378,959	33.79					
Lytle Valley Gas	98,773	677,680	6.86	134,899	4.20	479,941	4.86	517,694	5.24	276,683	2.80	1,230,030	450,000	276,683	9.35	2,870,212	29.06	3,150,642	32.91					
Northampton Gas	8,023	61,124	7.62	30,237	3.77	28,699	3.58	39,643	4.94	27,801	3.47	117,664	46,000	27,801	79.863	267,367	33.33	342,267	42.55					
North Shore Gas	33,113	179,262	5.41	72,820	2.20	158,246	4.78	191,644	5.79	123,968	3.89	599,965	212,000	123,968	18.597	939,537	27.77	1,067,037	32.22					
Norwood Gas	4,490	26,695	5.95	17,892	3.98	25,556	5.69	27,413	6.11	11,258	2.51	87,362	27,000	11,258	19.086	157,898	15.27	188,393	11.96					
Wachusett Gas	8,048	65,136	8.12	25,401	3.26	41,066	5.10	45,939	5.71	15,008	2.24	117,189	31,000	15,008	61.853	256,931	34.93	350,631	43.57					
NEES Mass. Gas Companies Average	235,765	1,569,456	6.66	794,908	3.37	1,106,494	4.69	1,245,500	5.28	724,366	3.07	3,186,932	1,110,357	724,366	1,322,209	5.61	6,762,833	28.68	8,104,033	34.37				
Other Non-affiliated Mass. Gas Cos. with over 5,000																								
Metrol:																								
Berkshire Gas	21,963	150,219	6.82	104,368	4.28	175,678	7.20	108,347	4.34	61,147	2.45	687,017	131,122	61,147	213,738	8.56	817,497	32.38						
Boston Gas	355,285	3,309,901	14.63	1,701,723	7.15	2,511,660	6.79	1,285,889	4.43	854,000	2.77	3,639,137	1,263,131	854,000	1,415,924	11.81	4,755,834	34.57						
Brookline-Dunton Gas	24,162	107,095	4.43	37,819	4.91	53,349	10.73	134,134	20.93	61,486	6.246	163,090	16,718	61,486	113,156	20.75	404,769	74.22						
Cambridge Gas	19,653	290,226	5.85	257,054	5.18	280,674	5.73	365,908	7.37	183,885	3.70	634,977	163,124	183,885	288,028	5.00	1,625,613	33.63						
Fall River Gas	10,867	88,832	8.10	31,894	2.91	49,000	4.47	44,679	4.07	23,900	2.18	162,507	46,019	23,900	92,580	8.14	330,913	30.17						
Pittsfield (Gas Dept.)	29,768	204,669	10.34	91,429	4.62	130,361	6.59	106,632	5.39	75,860	3.43	372,067	96,000	75,860	220,207	12.13	859,153	13.90						
Lowell Gas	29,206	124,489	4.26	103,571	3.55	192,110	6.58	250,165	8.57	50,687	1.76	190,834	171,701	50,687	268,446	9.19	989,468	33.99						
New Bedford (Gas Dept.)	13,173	353,525	8.19	115,333	2.67	146,685	3.40	203,090	4.70	143,289	3.12	521,278	177,738	143,289	200,251	4.64	1,262,113	26.92						
Springfield Gas	66,179	503,966	7.62	459,535	6.94	476,423	5.47	411,208	6.67	143,650	2.47	1,039,902	290,000	143,650	596,252	9.61	2,591,054	39.43						
Worcester Gas	77,940	1,173,522	15.05	447,523	5.74	536,568	6.48	775,595	9.95	354,186	4.57	1,483,519	424,129	354,186	595,194	7.64	3,064,440	49.93						
Other Companies Average	719,100	7,143,527	9.93	3,707,527	5.16	4,594,182	6.37	4,381,582	6.10	2,104,044	2.93	10,166,959	3,289,340	2,104,044	4,811,675	6.69	26,726,537	37.18						
Average of all above Mass. Gas Companies	954,865	\$9,712,983	\$9.12	\$4,502,135	\$4.72	\$5,690,676	\$6.94	\$5,689,082	\$5.90	\$2,132,410	\$2.97	\$13,355,991	\$4,389,697	\$2,132,410	\$4,811,675	\$6.42	\$13,501,370	\$13.84						

(a) Not including amortization of Conversion Costs as a credit and timing of conversion to high BTU gas is not constant.
(b) Figures in these columns are actual expenses plus additional estimated expenses if NEES gas companies were independently operated.

RESPONDENTS' EXHIBIT NO. 104A

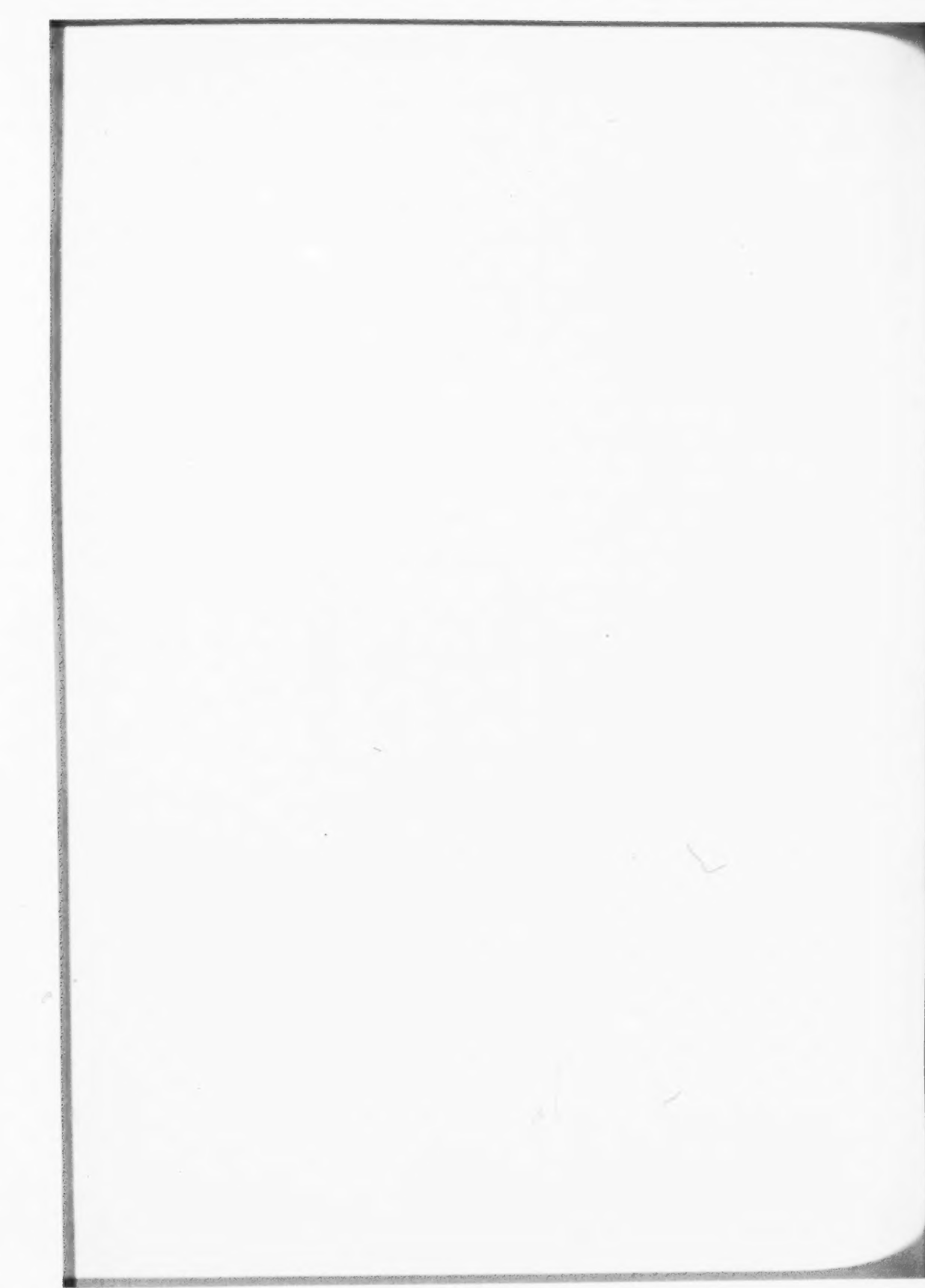
DATA* SUPPLEMENTAL TO RESPONDENT'S EX. 90
 MASSACHUSETTS GAS COMPANIES 1958 OPERATING EXPENSES
 PER CUSTOMER
 (EXCLUDING PRODUCTION AND PURCHASED GAS)

Pro Forma, assuming combined operation
 of the gas companies after severance.

	<i>Amount</i>	<i>Per Customer</i>
Transmission and Distribution	\$1,648,156	\$ 6.99
Utilization ^(a)	836,008	3.55
Commercial	1,429,994	6.06
New Business	1,243,300	5.27
Admin. and General, less depreciation		
but including Pensions & Welfare	2,648,375	11.24
Total — pro forma	<u>\$7,805,833</u>	<u>\$33.11</u>

^(a) Not including Amortization of Conversion Cost.

* Supplied to the Staff by Harry Hanson, Treasurer of NEES, via telephone.



Res. Exhibit No. 105
(14 Pages)

INCREASES IN COSTS UNDER COMBINED OPERATION

The following analysis sets forth in summary form, the effect of combined operation (separate from the NEES System) versus System operation in the year 1958, or the net effect of severance as a group upon the operations of the eight System gas companies.

Under Executive, Administrative and Staff, the Pro Forma Payroll has been taken from the Supplemental Report (Exhibit 91), while the actual figures shown are derived from the Gas Severance Study - Volume I (Exhibit 58-A).

Under the various other sections, the increases in cost have been summarized from the Gas Severance Study (pages 136, 237, 348, 447, 537, 631, 725 and 831), except where changes in operations have been contemplated under combined operation versus independent operation. Each change is explained in a note or by a Supplementary Schedule detailing the basis of the change, using as a source the Pro Forma figures in the Supplemental Report and Actual figures in the Gas Severance Study.

Executive, Administrative and Staff

	<u>Payroll</u>	<u>Expense Reimbursement</u>	<u>Payroll Taxes and Fringe Benefits</u>	<u>Billing for Services</u>	<u>Total</u>
Pro Forma (combined operation)					
Central Organization	\$574,300	\$35,000			\$609,300
Local Organizations:					
Central Mass. Gas	31,100				31,100
Lawrence Gas	43,800				43,800
Lynn Gas	58,800				58,800
Mystic Valley Gas	61,600				61,600
North Shore Gas	60,300				60,300
Northampton Gas	37,300				37,300
Norwood Gas	32,000				32,000
Wachusett Gas	31,000				31,000
	930,800	35,000			965,800
Adjustment to reduce salaries to average 1958 levels	(44,400)				(44,400)
	886,400	35,000			921,400
Actual (System operation)	(529,900)	(16,000)			(545,900)
NEPSCO				(\$235,300)	(235,300)
Billed by Worcester				(5,500)	(5,500)
Sub-Total	356,500	19,000		(240,800)	134,700
Payroll taxes and fringe benefits on increased payroll			\$53,500		53,500
	<u>\$356,500</u>	<u>\$19,000</u>	<u>\$53,500</u>	<u>(\$240,800)</u>	<u>\$188,200</u>

() Indicates red figure

The total increase in Executive, Administrative and Staff costs which would result from combined operation would affect the accounts of the eight gas companies as follows:

Operating Expenses	\$200,400
Payroll Taxes	5,500
Sub-Total	205,900
Clearing Accounts	(12,600)
Other Accounts	(5,100)
	<u>\$188,200</u>

(1) From pages 124, 225, 332-3, 432, 526, 622, 719 and 821 of Exhibit 58A.

Production, Distribution, Utilization and Garage

	<u>Other Operating Revenues</u>	<u>Operating Expenses</u>	<u>Payroll Taxes</u>	<u>Total</u>
Central Mass. Gas		(\$ 200)		(\$ 200)
Lawrence Gas		4,000		4,000
Lynn Gas		27,800	\$ 600	28,400
Mystic Valley Gas (1)		(1,100)	400	(700)
North Shore Gas	(\$1,800)	6,700		8,500
Northampton Gas		5,600	100	5,700
Norwood Gas		(600)		(600)
Wachusett Gas		100		100
Total	(\$1,800)	\$42,300	\$1,100	\$45,200

(1) Excludes Utilization Engineer on page 447 of Exhibit 58.

New Business

	<u>Operating Expenses</u>	<u>Payroll Taxes</u>	<u>Nonoperating Income(1)</u>	<u>Total</u>
Central Mass. Gas			(\$ 800)	\$ 800
Lawrence Gas			(6,800)	6,800
Lynn Gas (2)	(\$13,500)	(\$200)	(1,700)	(12,000)
Mystic Valley Gas	4,700	100	1,000	3,800
North Shore Gas			4,800	(4,800)
Northampton Gas			(700)	700
Norwood Gas			1,000	(1,000)
Wachusett Gas			2,700	(2,700)
Total	(\$ 8,800)	(\$100)	(\$ 500)	(\$8,400)

- (1) Included under Merchandising
 (2) As per Supplementary Schedule No. 1

General Accounting

	<u>Operating Expenses</u>	<u>Payroll Taxes</u>	<u>Total</u>
Central Mass. Gas (1)	(\$1,100)	(\$200)	(\$ 1,300)
Lawrence Gas (1)	6,600	100	6,700
Lynn Gas	5,000		5,000
Mystic Valley Gas	8,000	100	8,100
North Shore Gas (1)	5,800	100	5,900
Northampton Gas (1)	(400)	(100)	(500)
Norwood Gas (1)	(2,200)	-	(2,200)
Wachusett Gas (1)	(4,300)	200	(4,100)
	<u>\$17,400</u>	<u>\$200</u>	<u>\$17,600</u>

(1) As per Supplementary Schedule No. 2

Customer Accounting

	<u>Operating Expenses</u>	<u>Payroll Taxes</u>	<u>Total</u>
Central Mass. Gas	\$ 18,000	\$ 600	\$ 18,600
Lawrence Gas	26,800	300	27,100
Lynn Gas	134,000	1,700	135,700
Mystic Valley Gas	133,000	1,800	134,800
North Shore Gas	45,900	700	46,600
Northampton Gas	31,000	400	31,400
Norwood Gas	-	-	-
Wachusett Gas	20,900	500	21,400
	<u>\$409,600</u>	<u>\$6,000</u>	<u>\$415,600</u>

Machine Accounting

	<u>Operating Expenses</u>	<u>Payroll Taxes</u>	<u>Total</u>
Mystic Valley Gas	<u>\$13,400</u>	<u>\$100</u>	<u>\$13,500</u>

Stores

	<u>Operating Expense</u>	<u>Payroll Taxes</u>	<u>Total</u>
Central Mass. Gas (1)	\$ 800		\$ 800
Lawrence Gas (1)	4,700	\$ 200	4,900
Lynn Gas (1)	300	200	500
Mystic Valley Gas	-	-	-
North Shore Gas (1)	3,000	(100)	2,900
Northampton Gas (1)	200	-	200
Norwood Gas	-	-	-
Wachusett Gas (1)	200	-	200
Total	<u>\$9,200</u>	<u>\$ 300</u>	<u>\$9,500</u>

(1) As per Supplementary Schedule No. 3

Miscellaneous Services

	<u>Operating Expense</u>	<u>Payroll Taxes</u>	<u>Total</u>
Lynn Gas	<u>\$15,700</u>	<u>\$200</u>	<u>\$15,900</u>

Facilities (1)

	<u>Other Operating Revenue</u>	<u>Operating Expenses</u>	<u>Property Taxes</u>	<u>Depreciation</u>	<u>Total</u>
Central Organisation	-	\$37,000	-	-	\$37,000
Central Mass. Gas	\$ 1,000	10,900	-	-	9,900
Lawrence Gas	1,800	22,100	\$ 1,000	\$ 500	21,800
Lynn Gas	2,100	14,000	22,000	2,700	36,600
Mystic Valley Gas	-	(19,700)	-	-	(19,700)
North Shore Gas	(14,700)	(5,900)	-	-	8,800
Northampton Gas	(23,300)	-	-	-	23,300
Norwood Gas	-	-	-	-	-
Wachusett Gas	-	6,500	-	-	6,500
	<u>(\$33,100)</u>	<u>\$64,900</u>	<u>\$23,000</u>	<u>\$3,200</u>	<u>\$124,200</u>

(1) As per Supplementary Schedule No. 4

Insurance (1)

	<u>Pro Forma (2)</u>	<u>Actual</u>	<u>Increase (3)</u>
Total	<u>\$293,700</u>	<u>\$139,300</u>	<u>\$154,400</u>

- (1) As per Exhibit 91
 (2) Not allocated between companies
 (3) Operating Expense

Transportation

	<u>Operating Expenses</u>	<u>Total (1)</u>
Mystic Valley Gas	<u>(\$2,500)</u>	<u>(\$2,500)</u>

- (1) As per Supplementary Schedule No. 5

Professional Services

	<u>Pro Forma</u>	<u>Actual</u>	<u>Increase(1)</u>
Independent Audit			
Central Mass. Gas	\$ 2,500	\$ 1,600	\$ 900
Lawrence Gas	2,500	1,600	900
Lynn Gas	2,800	1,400	1,400
Mystic Valley Gas	2,300	1,600	700
North Shore Gas	2,900	2,300	600
Northampton Gas	2,500	1,600	900
Norwood Gas	1,700	1,000	700
Wachusett Gas	2,500	1,600	900
Central Organization	3,000	-	3,000
Outside Legal Services	<u>10,000</u>	<u>-</u>	<u>10,000 (2)</u>
Total	<u>\$32,700</u>	<u>\$12,700</u>	<u>\$20,000</u>

- (1) Operating Expense
 (2) Indicates Additional Cost

Miscellaneous

	<u>Other Operating Revenue</u>	<u>Operating Expense</u>	<u>Payroll Taxes</u>	<u>Depreciation</u>	<u>Total</u>
Central Organization(1)		\$25,300	\$100		\$ 25,400
Local Organizations:					
Central Mass. Gas		1,500		\$ 2,500	4,000
Lawrence Gas		10,000		3,000	13,000
Lynn Gas		12,500		2,500	15,000
Mystic Valley Gas	(\$3,000)	32,900		7,000	42,900
North Shore Gas		(8,400)		2,000	(6,400)
Northampton Gas	(100)	300		1,500	1,900
Norwood Gas		800		500	1,300
Wachusett Gas		1,200		3,000	4,200
Total	(\$3,100)	\$76,100	\$100	\$22,000	\$101,300

(1) As per Supplementary Schedule No. 6

NEW ENGLAND ELECTRIC SYSTEM

Summary of the Net Effect on the Income Accounts of the Eight Gas Companies Which Would Arise From Changes in Costs Through Severance As A Group From the NEES System

	Other Operating Revenue	Operating Expenses	Depreciation	Taxes	Nonoperating Income	Total
Executive, Administrative and Staff Production, Distribution, Utilization and Garage New Business	(\$ 1,800)	\$200,400 42,300 (8,800)		\$ 5,500 1,100 (100)		\$ 205,900 45,200 (8,400)
General Accounting		17,400		200		17,600
Customer Accounting		409,600		6,000		415,600
Machine Accounting		13,400		100		13,500
Stores		9,200		300		9,500
Miscellaneous Services		15,700		200		15,900
Facilities	(33,100)	64,900	\$ 3,200	23,000		124,200
Insurance		154,400				154,400
Transportation		(2,500)				(2,500)
Professional Services		20,000				20,000
Miscellaneous	(3,100)	76,100	22,000	100		101,300
Sub-Total	(38,000)	1,012,100	25,200	36,400	(500)	1,112,200
Distribution of Clearing Accounts		53,400				53,400
	(\$38,000)	\$1,065,500	\$25,200	\$36,400	(\$500)	\$1,165,600

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New BusinessSupplementary Schedule No. 1

	Pro Forma Payroll	Adjustment to Average 1958 Levels	Payroll Taxes and Fringe Benefits	Total Pro Forma	Total Actual	Increase
Lynn	\$87,600	(\$4,200)	\$12,500	\$95,900	\$110,200	(\$14,300)

The effect upon the accounts of Lynn Gas would be as follows:

Operating Expenses	(\$ 13,500)
Merchandising subsequently accounted for (p. 338-Vol. I)	(600)
Payroll Taxes	(200)
	<u>(\$ 14,300)</u>

Supplementary Schedule No. 2

General Accounting

	Pro Forma Payroll	Adjustment to Average 1958 Levels	Payroll Taxes and Fringe Benefits	Total Pro Forma	Total Actual	Increase
Central Mass. Gas	\$16,700	(\$ 800)	\$2,400	\$18,300	\$19,600	(\$1,300)
Lawrence Gas	33,600	(1,600)	4,800	36,800	30,100	6,700
North Shore Gas	32,800	(1,600)	4,700	35,900	30,000	5,900
Northampton Gas	20,000	(1,000)	2,800	21,800	22,300	(500)
Norwood Gas	10,500	(500)	1,500	11,500	13,700	(2,200)
Wachusett Gas	16,700	(800)	2,400	18,300	22,400	(4,100)

The effect upon the accounts of these companies would be as follows:

	Operating Expenses	Payroll Taxes	Total
Central Mass. Gas	(\$1,100)	(\$200)	(\$1,300)
Lawrence Gas	6,600	100	6,700
North Shore Gas	5,800	100	5,900
Northampton Gas	(400)	(100)	(500)
Norwood Gas	(2,200)	-	(2,200)
Wachusett Gas	(4,300)	200	(4,100)

StoresSupplementary Schedule No. 3

	Pro Forma Payroll	Adjustment to Average 1958 Levels	Payroll Taxes and Fringe Benefits	Total Pro Forma	Total Actual	Increase
Central Mass. Gas	\$10,200	(\$ 500)	\$1,500	\$11,200	\$ 8,800	\$ 2,400
Lawrence Gas	24,700	(1,200)	3,500	27,000	10,000	17,000
Lynn Gas	22,300	(1,100)	3,200	24,400	12,100	12,300
North Shore Gas	25,400	(1,300)	3,600	27,700	27,700	-
Northampton Gas	9,900	(500)	1,400	10,800	9,100	1,700
Wachusett Gas	10,200	(500)	1,500	11,200	8,300	2,900

The effect upon the accounts of these companies would be as follows:

	Operating Expense	Payroll Taxes	Stores Clearing	Total
Central Mass. Gas	\$ 800		\$ 1,600	\$ 2,400
Lawrence Gas	4,700	\$ 200	12,100	17,000
Lynn Gas	300	200	11,800	12,300
North Shore Gas	3,000	(100)	(2,900)	-
Northampton Gas	200	-	1,500	1,700
Wachusett Gas	200	-	2,700	2,900

Facilities

Supplementary Schedule No. 4

	Pro Forma Rental Cost(1)	Pro Forma Rental Income	Total Pro Forma	Actual Costs of Rentals	Actual Rental Income	Total Actual	Increase
Central Organization	\$37,000	-	\$37,000				\$37,000
Local Organizations:							
Central Mass. Gas	23,900	\$1,800	22,100	\$ 9,200	\$ 800	\$ 8,400	13,700
Lawrence Gas	61,300	3,000	58,300	37,100	1,200	35,900	22,400
Lynn Gas	40,600	2,100	38,500	-	-	-	38,500
Mystic Valley Gas	75,200	-	75,200	85,800	-	85,800	(10,600)
North Shore Gas	7,300	(2,900)	10,200	13,200	11,800	1,400	8,800
Northampton Gas	-	3,000	(3,000)	-	26,300	(26,300)	23,300
Norwood Gas	-	-	-	-	-	-	-
Wachusett Gas	19,600	-	19,600	7,000	-	7,000	12,600

The effect upon the accounts of these companies would be as follows:

	Other Operating Income	Operating Expense	Stores Clearing	Transportation Clearing	Property Taxes	Depreciation	Total(2)
Central Organization	-	\$37,000	-	-	-	-	\$37,000
Local Organizations:							
Central Mass. Gas	\$ 1,000	10,900	\$5,700	(\$1,900)	-	-	13,700
Lawrence Gas	1,800	22,100	7,200	(6,600)	\$ 1,000	\$ 500	22,400
Lynn Gas	2,100	14,000	1,900	-	22,000	2,700	38,500
Mystic Valley Gas	-	(19,700)	-	9,100	-	-	(10,600)
North Shore Gas	(14,700)	(5,900)	-	-	-	-	8,800
Northampton Gas	(23,300)	-	-	-	-	-	23,300
Norwood Gas	-	-	-	-	-	-	-
Wachusett Gas	-	6,500	6,100	-	-	-	12,600

(1) Reflecting reduction in space requirements for the "Local Organizations".

TransportationSupplementary Schedule No. 5

	<u>Operating Expense</u>	<u>Transportation Clearing</u>	<u>Total</u>
Pro Forma			
Central Organization (7 vehicles)		\$10,500	\$10,500
Central Mass. Gas (2 vehicles)		3,000	3,000
Central Mass. Gas (Servicing)		4,000	4,000
Lawrence Gas (Major Repairs)		5,000	5,000
Lynn Gas (3 vehicles)		4,500	4,500
Mystic Valley Gas (3 vehicles)		5,000	5,000
North Shore Gas (1 vehicle)		1,500	1,500
Northampton Gas (1 vehicle)		1,500	1,500
Northampton Gas (Servicing)		3,000	3,000
Norwood Gas		-	-
Wachusett Gas		-	-

Actual (Billing)

Central - From Worcester	(3,600)	(3,600)
Mystic - From Suburban	(4,800)	(4,800)
- To Suburban	2,300	2,300
Total	(\$2,500)	\$31,900
	\$34,400	

Supplementary Schedule No. 6Miscellaneous

	<u>Operating Expense</u>	<u>Payroll Taxes</u>	<u>Other Accounts</u>	<u>Total</u>
Holder and gas plant maintenance services	\$10,000		\$5,000	\$15,000
Student Engineering	6,900	\$100		7,000
Monthly Employee Magazine	4,000			4,000
Safety Materials and Supplies	1,500			1,500
Air Conditioning	2,400			2,400
Service School	500			500
Total	<u>\$25,300</u>	<u>\$100</u>	<u>\$5,000</u>	<u>\$30,400 (1)</u>

(1) Exclusive of net decrease in transportation costs shown on Supplementary Schedule No. 5

RESPONDENTS' EXHIBIT NO. 106
[Letterhead — NEW ENGLAND ELECTRIC SYSTEM]

December 7, 1960

Mr. Samuel Gishman
Assistant Chief Financial Analyst
Branch of Public Utility Regulation
Securities and Exchange Commission
Washington 25, D. C.

Dear Mr. Gishman:

This is in answer to your telephone inquiry concerning reconciliation of the \$1,300 increase in "Executive, Administrative and Staff" payroll and expenses (shown on page 719 of Exhibit 58 A), which would result from independent versus system operation of Norwood Gas Company, to the accounting effect of such increase for the year 1958 as shown on page 720 of Exhibit 58 A.

In 1958, Norwood built a liquid propane plant and Norwood's 1958 actual payroll costs (see page 709 and second paragraph on page 719) included \$6,800 for payroll plus \$1,600 related fringe benefits and expense reimbursement, an aggregate of \$8,400, for the engineering services of the Malden Gas Division which were charged to plant. Under independent operation, the Executive, Administrative and Staff payroll and expense for 1958 (see page 718 and first paragraph on page 719) would have been all chargeable to expense, except for \$1,900 which is considered to be the normal administrative payroll charged to construction. Other engineering services, such as was necessary in 1958 in connection with the liquid propane plant installation, would have been obtained from an outside source and charged to plant. Moreover, an additional \$1,200 of Norwood's actual payroll was charged to other than expense accounts, i.e., \$1,000 to merchandising (see top of page 721 re merchandising) and \$200 to clearing accounts which,

it has been assumed, would have been charged to expense under independent operation. Therefore, the \$8,400 applicable to the engineering services of the Malden Gas Division plus (a) \$1,200 of Norwood's 1958 payroll charged to other accounts, (b) \$6,800 estimated increase in payroll resulting from independent operation, (c) \$500 increase in annual expense reimbursement and (d) \$800 increase in payroll fringe benefits total \$17,700 from which was deducted the actual NEPSCO billings of \$7,000 charged to expense in 1958 to arrive at the \$10,700 increase in operating expenses as shown on page 720.

I hope this explains the situation to you. If not, please phone and we'll try again.

Sincerely yours

(s) HARRY HANSON

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RESPONDENTS' EXHIBIT NO. 107

RES. #107

NEW ENGLAND ELECTRIC SYSTEM
Gas Subsidiaries

Insurance Coverages in Effect (Except Group Annuity) - Annual Cost Per Policy Billings

Type of Insurance	Amounts or Limits of Liability	1954	1955	1956	1957	1958	1959
<u>Risks Insurance</u>							
Contents of Motor Vehicles	\$100,000	\$ 95	\$ 150	\$ 150	\$ 150	\$ 130	\$ 130
Destruction of Valuable Papers	300,000	70	70	70	79	79	79
Automobile Physical Damage	(1) 183,200	230	230	250	250	402	425
<u>Fidelity</u>							
Comprehensive Crime							
Fidelity	300,000)						
Money and Securities	100,000)	540	540	520	520	560	800
Forgery	100,000)						
Collection Agents	10,000)						
Open Stock	100,000)						
Water Heater Warranty Bond	Various	No Coverage	27,300	12,600	12,700	10,430	8,860
<u>Liability Insurance</u>							
Workmen's Compensation	Statutory	23,700	15,500	19,800	21,900	15,900	18,900
Personal Injury	one person - 100,000)						
Property Damage	one accident- 1,000,000)	11,500	7,600	19,700	20,100	12,000	10,200
Automobile Bodily Injury	per accident- 2,000,000)						
Automobile Property Damage	deductible - 1,000)	15,500	10,200	11,300	10,900	10,850	13,000
Excess of Primary (Umbrella	one person - 200,000)						
including gas explosion	two or more - 1,000,000)						
property damage)	per accident- 50,000)						
Legal Liability Gas Explosion	(2) 2,000,000	No. Cov.	No. Cov.	800	630	1,244	1,320
	(3) 2,500,000	25,600	34,300	37,800	39,200	38,450	38,450
<u>Liability Insurance</u>							
Boilers, Air Tanks, etc.	1,250,000	1,500	1,500	1,500	1,650	2,315	2,315
Direct Damage Gas Explosion	100,000	640	640	640	640	649	649
(Damage to Company Distribution System)							
Expense Insurance	(4) 848,000	2,340	2,340	3,700	2,900	5,730	5,730
Insurance, Extended Coverages							
Vandalism & Malicious Mischief	(5) 14,348,000	30,200	23,300	23,200	24,500	31,400	36,300
Insurance	129,600	No. Cov.	No. Cov.	No. Cov.	250	233	233
Water Leakage Insurance	23,250	50	50	50	50	50	50
Life, A.D.&D. and A.&H.	(6) -	6,600	5,700	5,800	6,700	8,825	9,990
Total	(7)	\$118,565	\$129,420	\$137,880	\$143,119	\$139,247	\$147,431

(1) Amount of insurance increased to \$ 329,600 in 1958

(2) Limit of insurance increased to 4,000,000 in 1958

(3) Limit of insurance increased to 6,000,000 in 1958

(4) Limit of insurance increased to 1,613,000 in 1958

(5) Amount of insurance increased to 22,735,470 in 1958

(6) Cost indicated is Insurance Company retention

(7) Totals for years 1954 through 1957 do not include Gas Dept. of Lynn Gas & Electric Co.

New England Electric System
Gas Subsidiaries

Summary of Insurance Changes Affecting Account 671
For Years 1954 Through 1959

Cost of System Gas Company Coverages

Deduct

Automobile Physical Damage

Water Heater Warranty Bond

Automobile Bodily Injury and Prop. Damage

Group Life, A.D.&D. and A.H.

Total Deductions

Balance charged principally to Account 671

Deduct Gas Dept. of Lynn Gas and Electric Co.

Total - 7 Companies, excluding "Lynn"

	1954	1955	1956	1957	1958	1959
	<u>\$118,565</u>	<u>\$129,420</u>	<u>\$137,880</u>	<u>\$143,119</u>	<u>\$139,247</u>	<u>\$147,431</u>
	230	230	250	250	402	425
No Coverage		27,300	12,600	12,700	10,430	8,860
15,500		10,200	11,300	10,900	10,850	13,000
<u>6,600</u>	<u>6,600</u>	<u>5,700</u>	<u>5,800</u>	<u>6,700</u>	<u>8,825</u>	<u>9,990</u>
<u>22,330</u>	<u>43,430</u>	<u>29,950</u>	<u>30,550</u>	<u>30,550</u>	<u>30,507</u>	<u>32,275</u>
96,235	85,990	107,930	112,569	108,740	115,156	
—	—	—	—	25,142	22,048	
<u>\$96,235</u>	<u>\$85,990</u>	<u>\$107,930</u>	<u>\$112,569</u>	<u>\$83,598</u>	<u>\$93,108</u>	

RESPONDENTS' EXHIBIT NO. 108

NEW ENGLAND ELECTRIC SYSTEM
 FIVE ELECTRIC COMPANIES
 COMMERCIAL COSTS PER CUSTOMER — 1958

	<i>Customers At December 31, 1958</i>	<i>Commercial Cost⁽¹⁾</i>	<i>Per Customer</i>
Lynn Electric Company	45,378	\$304,827	\$6.71
Merrimack-Essex Electric Company	164,836	746,291	4.53
Northampton Electric Lighting Company	9,512	36,415	3.83
Suburban Electric Company	80,302	336,352	4.19
Worcester County Electric Company	203,576	976,797	4.80

⁽¹⁾ Per 1958 Returns to the Massachusetts Department of Public Utilities.

RESPONDENTS' EXHIBIT NO. 109

DISTRIBUTION OF CLEARING ACCOUNTS BETWEEN OPERATING
 EXPENSE ACCOUNTS AND PLANT & OTHER ACCOUNTS
 UNDER COMBINED OPERATION (EXHIBIT 91)

Set forth on the attached tabulation is a summary of the sources of increases and decreases in charges to clearing accounts and the distribution thereof to operating expense accounts in the net amount of \$53,400 (Exhibit 91, page 40 and Exhibit 105, page 8) and to plant and other accounts in the net amount of \$28,100.

The changes in clearing account charges as shown on this tabulation are listed in accordance with the functional classifications used throughout Exhibits 58A and 91. In the Executive and Administrative category there is indicated a reduction of \$3,100 in Stores Clearing caused by eliminating NEPSCO billings to the individual gas compa-

nies which those companies had charged to Stores Clearing and which are shown in the E & A section of each company in Exhibit 58A. Also in this category is a reduction of \$2,100 in Transportation Clearing brought about by the elimination of the part time Garage Mechanic and Transportation Supervisor who was included in the actual E & A category of Northampton Gas Light Company (Exhibit 58A, page 610) and whose salary had been charged to Transportation Clearing. The final reduction in this category is \$7,400 in Other Clearing which is made up of \$1,700 in NEPSCO billings and \$5,700 of Gas Division charges. This \$5,700 is made up of (a) \$2,100 charged to inter-company billing clearing for services to the gas department of The Narragansett Electric Company (since such services would not be performed if the gas companies were separated from NEES, no such charge is made in the pro forma figures) and (b) an estimated \$3,600 representing curtailment of other actual activities charged to clearing accounts (chiefly preliminary survey and investigation) on account of the integration of the Lynn Gas department into the organization and the elimination of joint engineering services by the Lynn Gas and Electric Company, with resulting increased demands upon the Central Organization engineering staff.

The next category on the tabulation is Production, Distribution, Utilization and Garage which has a net increase of \$6,000 to Transportation Clearing made up of the following:

\$5,500 net increase at Lynn due to a payroll increase for garage personnel in the pro forma combined operation (Exhibit 91, page 20) as compared with actual payroll for garage personnel and supervision (Exhibit 58A, page 335) adjusted to 1958 wage levels;

\$3,800 net reduction at Mystic Valley due to elimination of Suburban billing for garage services and the

substitution therefor of personnel, whose direct payroll charges only would be charged to transportation clearing, to perform these services for Mystic Valley (Exhibit 91, page 24 and Exhibit 58A, page 435);

\$4,300 net increase at North Shore due to elimination of billing by North Shore to Merrimack-Essex for garage services at North Shore's Beverly garage. Of the \$5,000 billed in 1958, \$700 was for payroll taxes and fringe benefits which do not affect clearing accounts leaving a \$4,300 increase to Transportation Clearing.

The next category is General Accounting at Lynn in which there was a net reduction of \$1,900 in charges to Stores Clearing brought about by shifting of functions of certain Works Accounting personnel to General Accounting and to Stores Accounting to be consistent with functional categories established throughout Exhibits 58A and 91. That part of Works Accounting payroll which had been charged to Stores Clearing (\$1,900) has been deducted from Stores Clearing as shown on the tabulation and the functions have been provided for in the Stores Accounting group. The detail of the above is found in Exhibit 58A, pages 340, 341, 343 and 344.

In the Stores category the net increase of \$26,800 in charges to Stores Clearing is shown in detail by companies affected on the Supplementary Schedule No. 3 of Exhibit 105 which is based on the detailed payroll analysis for each company in Exhibits 58A and 91.

The changes in Stores Clearing and Transportation Clearing in the Facilities category are based on the net changes in charges to these clearing accounts brought about by the increases or decreases in rental costs of storeroom and garage space chargeable to Stores and Transportation Clearing accounts. The detail of these changes by affected

companies is shown on Supplementary Schedule No. 4 of Exhibit 105.

In the Transportation category the net increase in Transportation Clearing is \$34,400 which is detailed in Supplementary Schedule No. 5 of Exhibit 105 by companies affected. This Schedule also shows whether the increase in Transportation Clearing is due to increased number of vehicles or replacement of servicing previously provided by an affiliated company or otherwise. Supplementary Schedule No. 5 also shows the effect of eliminating intercompany billing for transportation services between Central Massachusetts and Worcester which affected Transportation Clearing and between Mystic Valley and Suburban which directly affected operating expense.

The last category on the tabulation is Miscellaneous showing a net increase of \$2,400 to Stores Clearing, \$1,800 to Transportation Clearing and \$3,100 to Other Clearing and a total of \$7,300 which are brought about by net increases in telephone charges chargeable to clearing accounts and elimination of intercompany billings which had affected clearing accounts in actual 1958 operation.

The distribution of increased charges to clearing accounts under pro forma combined operation shown at the bottom of the attached tabulation is based upon an analysis of the reason for each change in the charges to that clearing account. In the case of Stores Clearing the distribution of charges depends upon the type of materials handled. Since no change in the type of materials handled is anticipated as a result of severance, distribution of the \$45,100 net increase in charges to Stores Clearing is based upon an analysis of how the increase would have been distributed on the basis of actual type of materials handled in 1958. Therefore, the distribution follows in general the actual distribution between maintenance, construction and other accounts during the year 1958.

In the case of Transportation Clearing some of the changes in charges in this account are attributable to a change in the cost of providing transportation services for the same purposes as they were actually provided in 1958; in these cases distribution is based upon the actual use of these transportation services in 1958. Since most construction work for the gas companies was done by outside contractors the bulk of the Transportation Clearing account was charged to operating expense accounts. This would also be the case under pro forma combined operation and therefore the bulk of these increases in charges to Transportation Clearing is distributed to expense accounts. Other changes result from the necessity of providing additional transportation equipment, over and above those actually provided in 1958 principally passenger cars for customer service or general use. In these instances the distribution is based upon a consideration of the purposes for which each change in transportation equipment has been made.

The distribution of Other Clearing accounts has been arrived at in a similar way, by an analysis of the reasons for each change in charges to these accounts. The net decrease in charges to Other Clearing accounts is largely attributable to a decrease in time to be spent by the Central Organization gas engineers on matters chargeable to preliminary survey and investigation clearing and to elimination of Service Company billings charged to that account; therefore, the decrease in charges to other clearing accounts is largely distributed to plant.



SOURCE AND DISTRIBUTION OF CLEARING ACCOUNTS

1403

Source of Increase

Executive, Administrative and Staff
Page 2 - Exhibit 105

Production, Distribution, Utilization and Garage
Page 337 - Exhibit 58A (Lynn Gas)
Page 435 - Exhibit 58A (Mystic Valley Gas)
Page 527 - Exhibit 58A (North Shore Gas)

General Accounting

Page 341 - Exhibit 58A (Lynn Gas)

Stores

Supplementary Schedule No. 3 - Exhibit 105

Facilities

Supplementary Schedule No. 4 - Exhibit 105

Transportation

Supplementary Schedule No. 5 - Exhibit 105

Miscellaneous

Various pages - Exhibit 58-A (Note A)

Net increase in clearing accounts

	Stores Clearing	Transportation Clearing	Other Clearing	Total
	(\$3,100)	(\$2,100)	(\$7,400)	(\$12,600)
		5,500		5,500
		(3,800)		(3,800)
		4,300		4,300
	(1,900)			(1,900)
	26,800			26,800
	20,900	600		21,500
		34,400		34,400
	2,400	1,800	3,100	7,300
	\$45,100	\$40,700	(\$4,300)	\$81,500

Expense	Plant and Other	Total
\$15,100	\$30,000	\$45,100
39,000	1,700	40,700
(700)	(3,600)	(4,300)
\$53,400	\$28,100	\$81,500

Distribution of Stores Clearing
Distribution of Transportation Clearing
Distribution of Other Clearing

Note A - The amounts shown under miscellaneous consist of increases in telephone charges and other adjustments involving intercompany billings, the elimination of which effects clearing accounts.

RESPONDENTS' EXHIBIT NO. 110

EXPLANATION OF THE DERIVATION OF THE INCREASE IN CHARGES
TO OPERATING EXPENSES ON ACCOUNT OF EXECUTIVE,
ADMINISTRATIVE AND STAFF COSTS AS SHOWN ON

PAGE 2 OF EXHIBIT 105

Attached is a table with explanatory notes showing the derivation of the various figures shown at the bottom of page 2 of Respondents' Exhibit 105, including the figure of \$205,900 reflecting the increase in executive, administrative and staff costs chargeable to operating expense. This figure also appears at the top of the second column of figures on page 40 of Exhibit 91.

With respect to the \$12,600 and \$5,100 minus figures shown at the bottom of page 2 of Exhibit 105, the \$12,600 decrease in charges to clearing accounts is the net effect of the charges discussed in notes 4 and 7 to the attached table; and the \$5,100 decrease is the net effect of the matters explained in notes 3 and 5.

The reconciliation at the bottom of page 2 of Exhibit 105 is designed to summarize the effects on all accounts of the change in costs reflected in the main table on that page, and which must be taken into consideration in reaching the total at the bottom of page 40 of Exhibit 91. As already stated, the \$205,900 figure appears at the top of page 40 of Exhibit 91. Of the amounts entering into the \$5,100 minus figure at the bottom of page 2 of Exhibit 105, a minus \$5,700 enters into the \$8400 decrease shown for New Business costs on page 40 of Exhibit 91, as explained in note 5 to the attached table. The \$12,600 minus figure at the bottom of page 2 of Exhibit 105 is included in the net change in charges to clearing accounts as reflected in the total of \$53,400 on page 40 of Exhibit 91, to the extent it is ultimately chargeable to expense through the distribution of clearing accounts. (See the answer to the separate request for information with respect to said \$53,400 of distribution of clearing accounts.)

	<u>Actual</u>	<u>Pro Forma</u>	<u>Increase</u>
Executive, Administrative and Staff Payroll at 1958 Levels ^{1/}	\$529,900	\$ 886,400	\$ 356,500
Expense Reimbursement ^{1/}	16,000	35,000	19,000
Payroll Taxes and Fringe Benefits ^{2/}	79,500	133,000	53,500 ^{1/}
Total Payroll, etc.	<u>\$625,400</u>	<u>\$1,054,400</u>	<u>\$429,000</u>
Less Distribution of Payroll, etc. to Other Than Operating Expense:			
Plant Accounts ^{3/}	\$ 20,000	\$ 20,600	\$ 600
Clearing Accounts ^{4/}	23,500	15,700	(7,800)
Merchandising Expense ^{5/}	5,700	--	(5,700)
	<u>\$ 49,200</u>	<u>\$ 36,300</u>	<u>\$(12,900)</u>
*Distribution of Payroll, etc. to Operating Expense	<u>\$576,200</u>	<u>\$1,018,100</u>	<u>\$441,900</u>
NEPSCO Billing ^{6/}	\$235,300	--	\$(235,300)
Worcester Billing ^{1/}	5,500	--	(5,500)
Total Billing	<u>\$240,800</u>	<u>--</u>	<u>\$(240,800)</u>
Less Distribution of NEPSCO Billing to Clearing Accounts ^{7/}	<u>\$ 4,800</u>	<u>--</u>	<u>\$(4,800)</u>
*Distribution of Billing to Operating Expense	<u>\$236,000</u>	<u>--</u>	<u>\$(236,000)</u>
Sum of Items marked with asterisk (*), or Increase in Operating Expense	<u>\$812,200</u>	<u>\$1,018,100</u>	<u>\$ 205,900</u>

¹ See Exhibit 105, page 2.

² 15% of Payroll.

³ Actual charges to plant were chiefly for services of Gas Division Engineers. These charges are constant upon going to pro forma organization except for an estimated additional charge of \$1,300 for engineering to be performed by the Central Organization engineers for Lynn Gas Company and charged to plant. This increase is offset by elimination of \$700 actually charged in 1958 to plant on account of joint engineering services performed by the Lynn Gas and Electric Company engineering staff.

⁴ Pro forma charges to clearing accounts are less than the 1958 actual charges on account of three factors:

(a) Included in the actual executive, administrative and staff figures for 1958 is a Garage Mechanic and Transportation Supervisor at Northampton (Exhibit 58A — Page 610) whose salary was charged to transportation clearing in the amount of \$2,100; since no person performing equivalent services is

- included in the pro forma executive, administrative and staff group no such charge is made in the pro forma figures.
- (b) In 1958, \$2,100 was charged to intercompany billing clearing for services to the gas department of Narragansett Electric Company; since such services would not be performed if the gas companies were separated from NEES no such charge is made in the pro forma figures.
 - (c) Integration of the Lynn gas department into the organization and elimination of joint engineering services by the Lynn Gas and Electric Company, with resulting increased demands upon the Central Organization engineering staff, would require curtailment of other actual activities charged to clearing accounts (chiefly preliminary survey and investigation) in an estimated amount of \$3,600. These services would have to be obtained from outside the company, and since no provision has been made for the cost of these services in the pro forma organization, no corresponding charge to clearing accounts is appropriate.

⁵ In 1958, \$4,700 of the salary of the Assistant Manager at North Shore and \$1,000 of executive salary at Norwood was charged to merchandising (a non-operating income account). In the pro forma organization the Assistant Manager at North Shore has been eliminated and to achieve uniformity the charge to merchandising at Norwood has been eliminated. While these adjustments increase the difference between pro forma and actual executive, administrative and staff costs charged to operating expense, they have no effect on the total at the bottom of page 40 of Exhibit 91 because the adjustment is offset by a decrease in costs of merchandising (an increase in non-operating income) which is included in the reduction in New Business expense in the third line on page 40 of Exhibit 91. (See page 3 of Exhibit 105).

⁶ Does not include billings charged directly to capital accounts.

⁷ This figure consists of \$3,100 charged to stores clearing and \$1,700 to other clearing accounts, primarily preliminary survey and investigation. No provision for equivalent services has been made in the pro forma organization.

RESPONDENTS' EXHIBIT NO. 111

MYSTIC VALLEY GAS COMPANY —

SUBURBAN ELECTRIC COMPANY

IBM Machine Rental Allocation

	<i>Mystic Valley Gas Company</i>	<i>Suburban Electric Company</i>	<i>Total</i>
Rentals Paid to IBM (24 Machines)	\$28,800	\$19,900	\$48,700
Amount Billed by Mystic to Suburban	(13,300)	13,300	—
Amount Billed by Suburban to Mystic	11,300	(11,300)	—
Allocation of Total Costs	\$26,800	\$21,900	\$48,700

The rentals paid to IBM by each of the two companies bore no relationship to the final distribution of costs, but were merely the result of a grouping of machines for purposes of billing. The purpose of cross billing between Mystic and Suburban is to arrive at an equitable allocation of total rentals between the gas and electric companies.

The allocation of costs to be accomplished by cross billing is determined by a work load analysis as follows: An analysis of work load on the machines showed 30% to be general accounting and 70% to be customer accounting functions. Furthermore, gas and electric general accounting work performed was found to be approximately equal in amount, and therefore the 30% of the total applicable to general accounting was allocated 15% to each company. The 70%, relating to customer accounting functions, was allocated 30% to Suburban and 40% to Mystic, in direct proportion to the billing work load involved. A combination of the amount allocated under each function results in an overall allocation of 55% to Mystic and 45% to Suburban which is the result of the cross billing set forth above.

In addition, customer bills for North Shore Gas Company and the Salem-Beverly-Gloucester area of Merrimack-Essex Electric Company are also prepared on these machines for which Mystic Valley bills North Shore for the gas bills prepared and Suburban bills Merrimack-Essex for the electric bills prepared. The billing to North Shore and Merrimack-Essex is based upon total machine rentals and payroll costs applicable to the total bills prepared for the four companies, with the charges to North Shore and Merrimack being allocated in proportion to the total on a cost per bill basis. The total amount billed by Mystic to North Shore for this service was approximately \$11,800, half of which is taken as a credit to machine rental costs on page 445 of Exhibit 58A and the other half as a credit to payroll costs on page 442.

CENTRAL MASSACHUSETTS GAS COMPANY

Joint Space Occupied - 1958

	<u>Total Area Square Feet</u>	<u>Electric</u>	<u>Gas</u>	<u>Total Costs</u>	<u>Electric</u>	<u>Gas</u>	<u>Rentals</u>
<u>Actual Operation - Electric Buildings</u>							
General Office and Appliance Display (Main Street, Webster)	10,000	7,100	2,900	\$13,800	\$ 9,100	\$4,700 (1)	\$ 4,000
Office and Appliance Display (Main Street, Southbridge)	14,500	11,700	2,800	20,300	16,600	3,700	3,700
Office and Appliance Display (Main Street, Spencer)	1,700	900	800	3,400	1,900	1,500	1,500
Garage and Shop (Wellington Street, Webster)	3,600	2,400	1,200	4,500	3,000	1,500	1,500
Stockroom (Wellington Street, Webster)	7,400	6,700	700	4,400	4,000	400	400
Storage (Electric Substation) (Southbridge)	-	-	-	-	-	-	100
Garage (Main Street, Webster)	-	-	-	-	-	-	200
Applicable to Merchandising							<u>11,400</u>
							<u>2,200</u>
							<u>\$ 9,200</u>
<u>Actual Operation - Gas Buildings</u>							
Operating Departments and Stockrooms (Kia Street, Spencer)	3,500	1,700	1,800	1,100	500	600	\$500
Stockroom and Garage	3,400	1,400	2,000	900	300	600	300
							<u>\$800</u>

(1) Including \$700 billed to Wachusett for space occupied by joint general accounting group.

CENTRAL MASSACHUSETTS GAS COMPANY

Pro Forma Space Requirements

Square Foot Area	Estimated Total Cost	Chargeable to Merchandising	Facilities Cost Exhibit 58A	Billed to Wachusett (N. & B.)	Facilities Cost Exhibit 105
------------------------	----------------------------	-----------------------------------	-----------------------------------	-------------------------------------	-----------------------------------

Independent Operation

General Office, Appliance Display
and Stockroom
Appliance Display and cashiering,
etc., in Southbridge
Appliance Display and cashiering,
etc., in Spencer

8,800)					
)					
1,000)	\$29,900	\$4,400	\$25,500		
)					
1,000)					

Combined Operation (Note A)

General Office, Appliance Display
and Stockroom in Webster
Appliance Display and cashiering,
etc., in Southbridge
Appliance Display and cashiering,
etc., in Spencer

8,200)					
)					
1,000)	\$28,300	\$4,400		\$1,800	\$22,100
)					
1,000)					

Note A - After adjustments for elimination of space for 7 E. & A. personnel and 5 general accounting personnel under independent operation, and provision for 5 E. & A. personnel and 7 general accounting personnel under combined operation. General Superintendent in both instances would be housed in owned property.

Note B - Billing of one-half space requirements of 3 E. & A. and 7 general accounting personnel performing joint work for Central Mass. Gas and Wachusett Gas.

LAWRENCE GAS COMPANY

Joint Space Occupied - 1958

<u>Actual Operation - Electric Buildings</u>	<u>Total Area Square Feet</u>	<u>Electric</u>	<u>Gas</u>	<u>Total Costs</u>	<u>Electric</u>	<u>Gas</u>	<u>Rentals</u>
General Office and Appliance Display (Essex Street, Lawrence)	20,800	12,300(1)	8,500	\$63,500	\$38,000(1)	\$25,500	\$25,500
General Shop (Methuen Street, Lawrence)	18,100	16,700	1,400	22,600	21,000	1,600	1,600
Storehouse (Methuen Street, Lawrence)	11,900	10,500(2)	1,400	11,300	10,000(2)	1,300	1,300
Garage and Shop (Methuen Street, Lawrence)	22,100	13,900	8,200	25,700	16,300	9,400	9,400
						37,800	37,800
						700	700
						\$37,100	\$37,100
							\$1,200

1413

Applicable to Merchandising

Actual Operation - Gas Land

Storage Space

(Marston Street, Lawrence)

(1) Including space occupied by New England Power Company

(2) Including space occupied by New England Power Service Company

Exhibit 58-A, Page 232

Exhibit 58-A, Page 232

LAWRENCE GAS COMPANY

Pro Forma Space Requirements

<u>Square Foot Area</u>	<u>Estimated Total Cost</u>	<u>Chargeable to Merchandising</u>	<u>Facilities Cost Exhibit 58A</u>	<u>Billed to North Shore (Note B)</u>	<u>Facilities Cost Exhibit 105</u>
---------------------------------	-------------------------------------	--	--	---	--

Independent Operation

General Office and Appliance Display
Distribution and Utilization Depts.,
Appliance Installation Supervisor
and Stockrooms
Garage (conversion of owned building)

12,100)					
)	\$66,400	\$5,600	\$60,800		
)					
12,000)					
4,200)	3,300		3,300		
			<u>3,300</u>		
			<u>\$64,100</u>		

Combined Operation (Note A)

General Office and Appliance Display
Distribution and Utilization Depts.,
Appliance Installation Supervisor
and Stockrooms
Garage (conversion of owned building)

11,100)				\$3,000	\$55,000
)	\$63,600	\$5,600			
)					
12,000)					
4,200)	3,300				
					<u>3,300</u>
					<u>\$58,300</u>

Note A - After adjustments for elimination of space for 15 E. & A. personnel and 9 general accounting personnel under independent operation, and provision for 8 E. & A. personnel and 14 general accounting personnel under combined operation.

Note B - Billing of one-half space requirements of 4 E. & A. and 14 general accounting personnel performing joint work for Lawrence Gas and North Shore Gas.

MYSTIC VALLEY GAS COMPANY

JOINT SPACE OCCUPIED - 1958

1415

	Total Area Square Feet	Electric	Gas	Total Cost	Electric	Gas	Rentals
<u>Actual Operation - Electric Buildings</u>							
General Office and Appliance Display (Pleasant Street, Malden)	43,000	23,000	20,000	\$154,000	\$82,000	\$72,000	\$72,000
Appliance Display and Cashiering (Bartlett Street, Winthrop)	2,300	1,400	900	6,400	3,900	2,500	2,500
Service Center (Centre Street, Malden)	1,800	1,000	800	2,700	1,500	1,200	1,200
Garage and Shop (Centre Street, Malden)	50,000	-	-	-	-	6,000(1)	6,000
Appliance Display and Cashiering (Broadway, Everett - Leased)	2,000	1,100	900	4,000 *	2,100	1,900	1,900
Appliance Display and Cashiering (High Street, Medford - Leased)	1,600	900	700	2,800 *	1,500	1,300	1,300
<u>Actual Operation - Jointly Leased Space</u>							
Appliance Display and Cashiering (Main Street, Melrose)	1,400	800	600	1,800 *	1,000	800	800
Appliance Display, Cashiering, etc. (Broadway, Revere)	2,000	1,100	900	3,900 *	2,200	1,700	1,700
Branch Store Expenses (4 Leased Stores)	7,000	3,900	3,100	6,700	3,700	3,000	3,000
Chargeable to Merchandising							\$90,400
							4,600
							<u>\$85,800</u>

Exhibit 58-A, page 1413

Exhibit 58-A, page 443

* Cost of Space Only

(1) Light Vehicles at \$10 per month and Heavy Vehicles at \$15 per month

MYSTIC VALLEY GAS COMPANY

PRO FORMA SPACE REQUIREMENT'S

	<u>Square Foot Area</u>	<u>Estimated Total Cost</u>	<u>Chargeable to Merchandising</u>	<u>Facilities Cost Exhibit 58-A</u>	<u>Facilities Cost Exhibit 105</u>
<u>Independent Operation</u>					
General Office and Appliance Display in Malden	22,400)				
Appliance Display and Cashiering in Winthrop	1,200)				
Appliance Display and Cashiering in Everett	1,200)	\$79,000	\$6,700	\$72,300	
Appliance Display and Cashiering in Medford	1,200)				
Appliance Display and Cashiering in Melrose	1,200)				
Appliance Display, Cashiering and Sales in Revere	1,500)				
Garage and Shop in Malden	10,000	15,000		15,000	1416
		<u>\$94,000</u>	<u>\$6,700</u>	<u>\$87,300</u>	
<u>Combined Operation (Note A)</u>					
General Office and Appliance Display in Malden	18,000)				
Appliance Display and Cashiering in Winthrop	1,200)				
Appliance Display and Cashiering in Everett	1,200)				
Appliance Display and Cashiering in Medford	1,200)	\$66,900	\$6,700		\$60,200
Appliance Display and Cashiering in Melrose	1,200)				
Appliance Display, Cashiering and Sales in Revere	1,500)				
Garage and Shop in Malden	10,000	15,000			15,000
		<u>\$81,900</u>	<u>\$6,700</u>		<u>\$75,200</u>

NORTH SHORE GAS COMPANY

Joint Space Occupied - 1958

	<u>Total Area</u>	<u>Electric</u>	<u>Gas</u>	<u>Total Costs</u>	<u>Electric</u>	<u>Gas</u>	<u>Rentals</u>
	<u>Square Feet</u>						
	13,900	8,600	5,300	\$38,500	\$23,900	\$14,600	\$14,600
							<u>1,400</u>
							<u>\$13,200</u>

Exhibit 58-A, Page 533

Actual Operation - Electric Buildings

General Office and Appliance Display
(Washington Street, Salem - Leased)

Applicable to Merchandising

Actual Operation - Gas Buildings

Office and Appliance Display
(Cabot Street, Beverly)

Office and Appliance Display
(Main Street, Gloucester)

Storage Shed and Land
(River Street, Beverly)

8,900	3,000	5,900	\$15,000	\$5,000	\$10,000	\$5,000
5,200	3,400	1,800	10,200	5,400	3,500	5,400
						<u>1,400</u>
						<u>\$11,800</u>

Exhibit 58-A, Page 533

NORTH SHORE GAS COMPANY

Pro Forma Space Requirements

	Square Foot Area	Estimated Total Cost	Chargeable to Merchandising	Facilities Cost-Exhibits 58A & 105 Net Increase	Operating Revenue	Operating Expense
<u>Independent Operation</u>						
General Office and Appliance Display (Cabot Street, Beverly)	11,900	\$11,300(1)		\$11,300	(\$9,900)	\$1,400
Office and Appliance Display (Main Street, Gloucester)	5,200	5,400		5,400	(5,400)	
Storage Shed and Land (River Street, Beverly)		1,400		1,400	(1,400)	
Appliance Display and Cashiering (Salem)	1,500	4,100	\$1,200	2,900		2,900
		(13,200)		21,000	(16,700)	4,300
				(13,200)		(13,200)
General Office and Appliance Display (Washington Street, Salem)		\$9,000	\$1,200	\$7,800	(\$16,700)	(\$8,900)
<u>Combined Operation</u>						
General Office and Appliance Display (Cabot Street, Beverly)	10,900	\$9,300(2)		\$9,300	(\$7,900)	\$1,400
Office and Appliance Display (Main Street, Gloucester)	5,200	5,400		5,400	(5,400)	
Storage Shed and Land (River Street, Beverly)		1,400		1,400	(1,400)	
Appliance Display and Cashiering (Salem)	1,500	4,100	\$1,200	2,900		2,900
Billing by Lawrence Gas (Joint Treasury activities)		3,000		3,000		3,000
		(13,200)		22,000	(14,700)	7,300
				(13,200)		(13,200)
General Offices and Appliance Display (Washington Street, Salem)		\$10,000	\$1,200	\$8,800	(\$14,700)	(\$5,900)

- (1) Loss of rentals of \$1,900 from outside tenants, \$5,000 from Merrimack-Essex Electric and costs applicable to space vacated by outside tenants.
 (2) Loss of rentals of \$2,900 from outside tenants, \$5,000 from Merrimack-Essex Electric and costs applicable to space vacated by outside tenants.

vacated by outside tenants. \$5,000 from Merrimack-Essex Electric and costs applicable to space
(2) Loss of rentals of \$2,900 from outside tenants.

NORTHAMPTON GAS LIGHT COMPANY

Joint Space Occupied - 1958

	<u>Total Area Square Feet</u>	<u>Electric</u>	<u>Gas</u>	<u>Total Costs</u>	<u>Electric</u>	<u>Gas</u>	<u>Rentals</u>
Actual Operation - Gas Buildings							
General Office, Appliance Display and Operating Departments (Main Street, Northampton)	12,400	6,800	5,600	\$35,900	\$19,700	\$16,200	\$19,700
Garage and Shop (Crafts Avenue, Northampton)	3,000	1,800	1,200	4,500	2,700	1,800	2,700
Storehouse (Crafts Avenue, Northampton)	6,600	4,200	2,400	5,800	3,700	2,100	3,700
Land for Storage (South Street, Northampton)							<u>200</u>

Exhibit 58-A, Page 627

\$26,300

NORTHAMPTON GAS LIGHT COMPANY

Pro Forma Space Requirements

	Space Foot Area (1)	Total Cost	Rentals from Outsiders	Loss of Northampton Electric Rentals	Increased Costs
<u>Independent or Combined Operation</u>					
General Office, Appliance Display and Operating Departments (Main Street, Northampton)	11,300	\$35,900	\$3,000	(\$19,700)	\$16,700
Garage and Shop (Crafts Avenue, Northampton)	3,000	4,500		(2,700)	2,700
Storehouse (Crafts Avenue, Northampton)	6,600	5,800		(3,700)	3,700
Land for Storage (South Street, Northampton)				(200)	200
				Exhibit 58-A, Page 628 and Exhibit 105 (Operating Revenues)	<u>\$23,300</u>

1420

(1) Includes excess space requirements which cannot be rented because of location

WACHUSETT GAS COMPANY

Joint Space Occupied - 1958

	<u>Total Area Square Feet</u>	<u>Electric</u>	<u>Gas</u>	<u>Total Costs</u>	<u>Electric</u>	<u>Gas</u>	<u>Rentals</u>
<u>Actual Operation - Electric Buildings</u>							
General Office and Appliance Display (Main Street, Leominster)	5,300	3,600	1,700	\$16,000	\$10,700	\$5,300	\$5,300
Office and Appliance Display (High Street, Clinton)	6,100	4,700	1,400	10,600	8,200	2,400	2,400
Stockroom (Mechanic Street, Leominster)	5,300	4,900	400	6,400	5,900	500	500
Stockroom and Garage (Parker Street, Clinton)	6,900	5,800	1,100	4,400	3,700	700	700
General Office (See Central Mass. Gas) (Main Street, Webster)							700
							<u>\$9,600</u>
							<u>2,600</u>
							<u>\$7,000</u>

Applicable to Merchandising

Exhibit 58A, page 827

WACHUSETT GAS COMPANY

	<u>Pro Forma Space Requirements</u>			<u>Facilities Cost Exhibit 58A</u>	<u>Billed from Central (Note B)</u>	<u>Facilities Cost Exhibit 105</u>
	<u>Square Foot Area</u>	<u>Estimated Total Cost</u>	<u>Chargeable to Merchandising</u>			
<u>Independent Operation</u>						
General Office, Appliance Display and Stockroom	8,900)					
Appliance Display and cashiering, etc. in Clinton	1,000)	\$27,400	\$3,000	\$24,400		
<u>Combined Operation (Note A)</u>						
General Office, Appliance Display and Stockroom in Leominster	6,500)					
Appliance Display and cashiering etc. in Clinton	1,000)	\$20,800	\$3,000	\$1,800	\$19,600	

Note A - After adjustments for elimination of space for 7 E. & A. personnel and 5 general accounting personnel under independent operation, and provision for 2 E. & A. personnel under combined operation. General Superintendent in both instances would be housed in owned property.

Note B - Billing of one-half space requirements of 3 E. & A. and 7 general accounting personnel performing joint work for Central Mass. Gas and Wachusett Gas.

RESPONDENTS' EXHIBIT NO. 113

CENTRAL MASSACHUSETTS GAS COMPANY
Customers and Population by Communities

	<i>Population (1960 Census)</i>	<i>Customers at December 31, 1960</i>
Brookfield	1,751	123
East Brookfield	1,533	121
North Brookfield	3,616	476
West Brookfield	2,053	202
Dudley	6,510	872
Leicester ⁽¹⁾	8,177	82
Spencer	7,838	921
Southbridge	16,523	3,524
Warren	3,383	294
Webster	13,680	3,173
Total	65,064	9,788

⁽¹⁾ Includes an estimated 2,500 served by Worcester Gas Light Company, a non-affiliate.

LAWRENCE GAS COMPANY
Customers and Population by Communities

	<i>Population (1960 Census)</i>	<i>Customers at December 31, 1960</i>
Lawrence	70,933	21,510
Methuen	28,114	6,365
Andover	15,878	2,920
North Andover	10,908	2,237
Total	125,833	33,032

LYNN GAS COMPANY		
Customers and Population by Communities		
	<i>Population</i> <i>(1960 Census)</i>	<i>Customers at</i> <i>December 31, 1960</i>
Lynn	94,478	27,613
Swaripscott	13,294	2,838
Saugus	20,666	4,076
Nahant	3,960	1,026
Marblehead	18,521	4,172
Lynnfield	8,398	798
Peabody ⁽¹⁾	1,123	330
Total	160,440	40,853

⁽¹⁾ Plus an estimated 31,100 served by North Shore Gas Company.

MYSTIC VALLEY GAS COMPANY		
Customers and Population by Communities		
	<i>Population</i> <i>(1960 Census)</i>	<i>Customers at</i> <i>December 31, 1960</i>
Arlington	49,953	11,449
Belmont	28,715	6,273
Burlington	12,852	908
Everett	43,544	12,735
Lexington	27,691	2,404
Malden	57,676	15,987
Medford	64,971	16,027
Melrose	29,619	6,901
Reading	19,259	1,955
Revere	40,080	9,992
Stoneham	17,821	2,483
Winchester	19,376	3,361
Winthrop	20,303	5,406
Woburn	31,214	3,850
Fringe Customers		18
Total	463,074	99,749

NORTH SHORE GAS COMPANY
Customers and Population by Communities

	<i>Population (1960 Census)</i>	<i>Customers at December 31, 1960</i>
Beverly	36,108	7,576
Danvers	21,926	3,363
Gloucester	25,789	✓ 5,861
Peabody ⁽¹⁾	32,202	6,307
Rockport	4,616	131
Salem	39,211	10,200
Total	159,852	33,438

⁽¹⁾ Includes 1,123 served by Lynn Gas Company.

NORTHAMPTON GAS LIGHT COMPANY
Customers and Population by Communities

	<i>Population (1960 Census)</i>	<i>Customers at December 31, 1960</i>
Northampton	30,058	5,713
Easthampton	12,326	2,296
Total	42,384	8,009

NORWOOD GAS COMPANY
Customers and Population by Communities

	<i>Population (1960 Census)</i>	<i>Customers at December 31, 1960</i>
Norwood	24,898	4,912

WACHUSETT GAS COMPANY
Customers and Population by Communities

	<i>Population (1960 Census)</i>	<i>Customers at December 31, 1960</i>
Clinton	12,848	2,800
Lancaster	3,958	15
Leominster	27,929	5,142
Lunenburg ⁽¹⁾	6,334	87
Total	51,069	8,044

⁽¹⁾ Includes estimated 400 served by Fitchburg Gas and Electric Light Company.

RESPONDENTS' EXHIBIT NO. 113A

CERTAIN NON-AFFILIATED GAS COMPANIES IN MASSACHUSETTS
 POPULATION BY COMMUNITIES
 (In Communities with over 25 meters at December 31, 1958)

	<i>Population (1960 Census)</i>
THE BERKSHIRE GAS COMPANY	
Adams	12,391
Clarksburg	1,741
Cheshire	2,472
Dalton	6,436
Greenfield	17,690
Lanesborough	2,933
Lee	5,271
Lenox	4,253
Montague	7,836
North Adams	19,905
Pittsfield	57,879
Stockbridge	2,161
Williamstown	7,322
<hr/>	
Total	148,290

BROCKTON-TAUNTON GAS COMPANY	
Attleborough	27,118
Avon	4,301
Bridgewater	10,276
Brockton	72,813
Canton	12,771
Dighton	3,769
Duxbury	4,727
East Bridgewater	6,139

	<i>Population (1960 Census)</i>
Easton	9,078
Foxborough	10,136
Franklin	10,530
Hanover	5,923
Hanson	4,370
Holbrook	10,104
Lakeville	3,209
Mansfield	7,773
Marshfield	6,748
Medfield	6,021
Medway	5,168
Norton	6,818
Norwell	5,207
Pembroke	4,919
Randolph	18,900
Scituate	11,214
Seekonk	8,399
Sharon	10,070
Stoughton	16,328
Taunton	41,132
Walpole	14,068
West Bridgewater	5,061
Wrentham	6,685
<hr/>	
Total	369,775

FALL RIVER GAS COMPANY

Fall River	99,942
Somerset	12,196
Swansea	9,916
Westport	6,641
<hr/>	
Total	128,695

Population
(1960 Census)

HAVERHILL GAS COMPANY

Amesbury	10,787
Boxford	2,010
Essex	2,238
Georgetown	3,755
Groveland	3,297
Hamilton	5,488
Haverhill	46,346
Ipswich	8,544
Manchester	3,932
Merrimac	3,261
Newbury	2,519
Newburyport	14,004
Rowley	2,783
Salisbury	3,154
Topsfield	3,351
Wenham	2,798

Total 118,267

LOWELL GAS COMPANY

Billerica	17,867
Chelmsford	15,130
Dracut	13,674
Dunstable	824
Lowell	92,107
Pepperell	4,336
Tewksbury	15,902
Tyngsborough	3,302
Westford	6,261

Total 169,403

Population
(1960 Census)

SPRINGFIELD GAS LIGHT COMPANY

Agawam	15,718
Chicopee	61,553
East Longmeadow	10,294
Longmeadow	10,565
Ludlow	13,805
South Hadley	14,956
Springfield	174,463
West Springfield	24,924
Wilbraham	7,387

Total 333,665

WORCESTER GAS LIGHT COMPANY

Ashland	7,779
Auburn	14,047
Dedham	23,869
Framingham	44,526
Grafton	10,627
Holliston	6,222
Hopedale	3,987
Hopkinton	4,932
Hudson	9,666
Marlborough	18,819
Maynard	7,695
Milford	15,749
Millbury	9,623
Natick	28,831
Needham	25,793
Northbridge	10,800
Sherborn	1,806
Shrewsbury	16,622
Southborough	3,996

	<i>Population (1960 Census)</i>
Stow	2,573
Sutton	3,638
Upton	3,127
Uxbridge	7,789
Westborough	9,599
West Boylston	5,526
Westwood	10,354
Worcester	186,587
<hr/>	
Total	494,582 ⁽¹⁾

⁽¹⁾ Excluding small part of City of Boston also served.

NOTE: The foregoing figures reflect a population growth in these communities between 1950 and 1960 of 18%. The population growth in that period in the communities served by the NEES gas companies listed in Exhibit No. 113 was 11%.

RESPONDENTS' EXHIBIT NO. 114

NEW ENGLAND ELECTRIC SYSTEM MASSACHUSETTS GAS COMPANIES

RATE OF RETURN DATA

	1958			1959		
	Rate Base (A)	Net Operating Income	Rate of Return Per Cent	Rate Base (A)	Net Operating Income	Rate of Return Per Cent
Norwood Gas	\$ 935,232	\$ 65,891	7.1%	\$ 1,197,870	\$ 97,675	8.1%
Northampton Gas	1,573,600	94,248	6.0	1,685,342	116,924	6.9
Wachusett Gas	1,561,747	106,543	6.8	1,714,637	111,857	6.5
Central Mass. Gas	2,240,180	174,685	7.8	2,429,026	128,428	5.3
Lawrence Gas	5,030,036	335,153	6.7	5,415,565	393,539	7.3
North Shore Gas	8,310,518	465,513	5.6	8,562,219	510,529	6.0
Lynn Gas	6,176,647	464,881	7.5	6,157,343	313,138	5.1
Mystic Valley Gas	19,105,025	1,238,931	6.5	20,561,160	1,378,898	6.7
Total	\$44,932,985	\$2,945,845	6.6%	\$47,723,162	\$3,050,988	6.4%

(A) Rate Base is determined as follows:

Total Plant and General Equipment at December 31

Less: Depreciation Reserve

Contributions for Extensions

Plus: Materials and Supplies (excluding Gas Appliances and Appliance Repair Parts)

RESPONDENTS' EXHIBIT NO. 116

[Letterhead — NEW ENGLAND ELECTRIC SYSTEM]

April 18, 1961

Mr. Samuel Gishman, Asst. Chief Financial Analyst
Public Utility Regulation
Division of Corporate Regulation
Securities and Exchange Commission
Washington 25, D. C.

Dear Mr. Gishman:

This letter gives the information which you requested of me by telephone on Friday, April 14.

1. Referring to Exhibit 58A and the section applicable to Central Massachusetts Gas Company and more specifically page 138, the federal income tax reduction or saving allocated to that company in 1958 due to participation in the NEES consolidated return was \$63,800. If savings from participation had been allocated without reference to the operating loss carry-over of Central utilized in the system's consolidated return in a prior year the reduction or saving allocated to Central would only have amounted to \$1,900. Now referring to the first sheet of Exhibit 59 and making the same assumption, the federal income tax reduction for Central Massachusetts Gas Company for 1958 would have been \$48,900 rather than an increase as shown of \$13,000 and gross income before interest and dividends instead of showing a reduction of \$115,500 would have shown a decrease of \$53,600.

Also referring to Exhibit 59, if the loss carry-over had not been a factor in allocating federal income tax for the year 1958 the total reduction in federal income tax of the eight companies because of participation in the NEES con-

solidated return would have been \$149,900 rather than \$203,600 and gross income before interest and dividends would have been \$903,900 rather than \$957,600 as shown.

2. As I explained to you by 'phone, Massachusetts utilities pay a franchise tax to the Commonwealth of Massachusetts which totals 4.92% of taxable net income for federal income tax purposes. This tax is charged to tax expense in the year in which it is paid and is based on taxable net income for the preceding calendar year. This means that in 1958 our Massachusetts utilities paid a franchise tax of 4.92% of their 1957 taxable net income, which was recorded as tax expense in 1958. In response to your inquiry, if we had adjusted tax expense in 1958 for the reduction in Massachusetts franchise tax payable in 1959 to give effect to the decreased taxable net income, the effect would have been a tax reduction of \$70,000 applicable to the \$1,495,000 reduction in gross income before federal income tax shown in Exhibit 59, while the tax reduction would have been \$54,700 applicable to the \$1,165,600 of decreased gross income shown on page 40 of Exhibit 91.

3. Your remaining request, as I understand it, is to assume combined operation of the eight gas companies for the year 1958 as shown in Exhibit 82, and adjust for (a) the cost increases shown in the second column on page 40 of Exhibit 91 and page 8 of Exhibit 105, (b) the filing of one federal income tax return that would include the eight companies on a combined basis and ignore the loss carry-over of Central Massachusetts Gas Company, (c) decrease the accruals for Massachusetts franchise tax payable in 1959 for these changes, (d) assume the same income deductions as set forth in Exhibit 82, and give you an adjusted income statement for 1958. Four copies of such an adjusted income statement are enclosed.

Sincerely yours

NEW ENGLAND ELECTRIC SYSTEM MASSACHUSETTS GAS SUBSIDIARIES
Adjusted Consolidated Income Statement
For the Year Ended December 31, 1958

1435

	Gas Subidiaries Consolidated per Exhibit 82	Adjustment Re Central Gas Company (a)	Effect of Combined Operation after F.I.T. per Exhibit 91, page 40 and Exhibit 105, page 8	Adjustment of Massachusetts Franchise Tax (c)	Adjusted Gas Subidiaries Consolidated
Gross Earnings					
Gas Sales	\$22,666,175				\$22,666,175
Other Operating Revenue	86,095		(\$38,000)		48,095
Total Operating Revenues	22,752,270		(38,000)		22,714,270
Merchandise and Jobbing	81,867				81,867
Other Income	91,918		(500)		91,418
Total Gross Earnings	22,926,055		(38,500)		22,887,555
Operating Expenses and Taxes					
Operating Costs					
Purchased Gas	5,895,483		1,065,500		6,960,983
Maintenance ex. Amortization of Conversion Costs	6,705,066				6,705,066
Amortization of Cost of Converting Consumers' Appliances	1,649,467				1,649,467
Depreciation	625,316				625,316
Total Operating Expenses	1,410,357		25,200		1,435,557
Taxes - Municipal and State	16,015,589		1,090,700		17,106,289
Taxes - Federal (other than Income)	2,101,643		27,500		2,129,143
Taxes - Federal Income	89,859		8,900		98,759
	1,600,367	(\$8,100)	189,900(b)	(\$54,700)	1,266,367
Total Taxes		61,900	(577,700)		
Total Operating Expenses and Taxes	3,791,869	53,800	(352,400)	(54,700)	3,439,569
Gross Income (Balance before Interest)	19,807,558	53,800	739,300	(54,700)	20,545,958
Income Deductions	3,118,597	(53,800)	(777,800)	54,700	2,341,527
Interest on Long-term Debt	754,613				754,613
Interest on Conversion Notes Payable	88,584				88,584
Amortization of Debt Discount and Expense	5,478				5,478
Interest on Short-term Notes Payable	175,210				175,210
Other Interest Expense	28,694				28,694
Interest during Construction - Credit	(7,579)				(7,579)
Other Charges against Income	3,933				3,933
Total Income Deductions	1,048,933				1,048,933
Net Income before Dividends	\$2,069,564	(\$53,800)	(\$777,800)	\$54,700	\$1,292,664

) Indicates red figure

- a) Gives effect to elimination of operating loss carry-over of Central Massachusetts Gas Company with resultant tax to Central Massachusetts of \$61,900 and additional savings to the other gas subsidiaries of \$8,100.
b) Comprises savings from participation in NEES consolidated return.
c) Reduction in Massachusetts Franchise Tax in subsequent year if changes shown in third column had been effective during year 1958.

NON-AFFILIATED MASSACHUSETTS GAS COMPANIES

RATE OF RETURN DATA (A)

	1958			1959		
	Rate Base(B)	Net Operating Income	Rate of Return Per Cent	Rate Base(B)	Net Operating Income	Rate of Return Per Cent
shire Gas	\$ 5,629,026	\$ 338,685	6.0%	\$ 6,511,343	\$ 336,917	5.2%
ton-Taunton Gas	11,523,164	712,613	6.2	12,583,221	767,711	6.1
River Gas	6,697,950	427,331	6.4	7,149,763	440,326	6.2
ill Gas	4,822,009	310,943	6.4	5,375,666	362,916	6.8
Gas	8,010,583	678,230	8.5	8,724,932	687,871	7.9
field Gas	16,519,503	1,070,684	6.5	17,529,219	1,117,288	6.4
ter Gas	20,382,241	1,094,618	5.4	22,497,979	1,003,016	4.5
als	\$73,584,476	\$4,633,104	6.3%	\$80,372,123	\$4,716,045	5.9%

determined from information included in Annual Returns for 1958 and 1959 on file with the
Massachusetts Department of Public Utilities.

Berk
Br.
Less: Depreciation Reserve
Contributions for Extensions
Plus: Materials and Supplies (excluding Gas Appliances)

Investments in Eight Massachusetts Gas Subsidiaries

During Five Year Period 1956-1960

Investments in Common Stocks	Investments at January 1, 1956	Acquisition and (Retirement) of Securities during Period		Investments at December 31, 1960
		New Issues	Outstanding Issues	
Central Massachusetts Gas Company	\$ 925,000	\$ 700,000		\$ 1,625,000
Lawrence Gas Company	2,795,520			2,795,520
Lynn Gas Company	-		\$3,971,650	3,971,650
Mystic Valley Gas Company	8,661,267		7,496	8,668,763
North Shore Gas Company	2,992,531		26,999	3,019,530
Northampton Gas Light Company	250,000	630,025		880,025
Norwood Gas Company	122,600	139,700	120	262,420
Wachusett Gas Company	722,155	300,000		1,022,155
Total Investments in Common Stock	\$16,469,073	\$1,769,725	\$4,006,265	\$22,245,063
Investments in Notes Payable				
Lynn Gas Company	-	\$1,489,000	(\$16,000)	\$ 1,473,000
Northampton Gas Light Company	\$ 550,000	5,725,000	(5,565,000)	710,000
North Shore Gas Company	365,000	365,000	(730,000)	-
Norwood Gas Company	565,000	7,302,500	(6,842,500)	1,025,000
Total Investments in Notes Payable	\$1,480,000	\$14,881,500	(\$13,153,500)	\$ 3,208,000

NEW ENGLAND ELECTRIC SYSTEM

FIVE ELECTRIC COMPANIES

RATE OF RETURN DATA

	1958			1959		
	Rate Base(A)	Net Operating Income	Rate of Return Per Cent	Rate Base(A)	Net Operating Income	Rate of Return Per Cent
Lynn Electric	\$14,376,367	\$ 603,014	4.2%	\$14,344,607	\$ 733,352	5.1%
Merrimack-Essex Electric	53,845,088	3,269,914	6.1	55,934,904	3,464,642	6.2
Northampton Electric	1,951,076	121,421	6.2	2,023,388	144,053	7.1
Suburban Electric	18,072,979	1,170,524	6.5	18,714,175	1,242,060	6.6
Worcester County Electric	69,857,419	3,579,525	5.1	71,958,936	4,231,816	5.9

(A) Rate Base is determined as follows:

Total Plant and General Equipment at December 31
Less: Depreciation Reserve
Contributions for Extensions
Plus: Materials and Supplies (excluding Electric Appliances
and Appliance Repair Parts)

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DIVISION EXHIBIT NO. 1

NEW ENGLAND ELECTRIC SYSTEM
441 STUART STREET
BOSTON 16, MASSACHUSETTS

HARRY HANSON
VICE PRESIDENT AND TREASURER

February 21, 1961

Mr. Francis H. Spencer
Division of Corporate Regulation
Securities and Exchange Commission
Washington 25, D. C.

Dear Mr. Spencer:

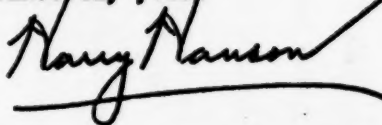
Re: File No. 59-102

This is in answer to an inquiry by Mr. Samuel Gishman and Mr. Leon Ware concerning an explanation of the differences between insurance costs as shown by Exhibit 89 and the amounts shown as insurance expense (Account 671) on page 306 of the 1958 Returns of the gas companies to the Massachusetts Department of Public Utilities.

The principal reason for these differences is that the costs of certain of the coverages are chargeable to accounts other than Account 671. With respect to Automobile Physical Damage Insurance and Automobile Bodily Injury and Property Damage Insurance, premium costs are charged initially to transportation clearing accounts and subsequently distributed to other accounts based upon vehicle use by the various departments. With respect to Group Life, A.D. & D. and A. & H., these amounts are charged to Account 672. With respect to Water Heater Warranty Bond, premium costs are charged initially to a suspense account, and then amortized over the estimated lives of water heaters rented to customers. The costs of the remaining coverages shown in Exhibit 89 are those that are charged to Account 671, and, to a minor extent, other accounts. Another reason for the differences is that charges by New England Power Service Company for services relating to insurance coverages are included in Account 671, as are minor charges for policies not shown in Exhibit 89.

Exhibit 58 (the Gas Severance Study) shows for each company the total increases in insurance expense under independent operation and the amounts that would effect income accounts in the test year 1958. Similarly, Exhibit 91 (the Supplemental Report on Gas Severance) shows the total insurance savings under combined operation as compared to independent operation and the amount that would effect income accounts in the test year 1958.

Sincerely yours



MEES & GAS COMPANIES
Actual Cost of Insurance per Books
D.P.U. Account C 671
Years 1954 - 1959 Inclusive

<u>Company</u>	<u>1954</u>	<u>1955</u>	<u>1956</u>	<u>1957</u>	<u>1958</u>	<u>1959</u>
Central Mass. Gas Co.	\$ 5,764	\$ 5,211	\$ 5,256	\$ 6,565	\$ 4,725	\$ 5,034
Laurence Gas Co.	13,976	13,420	16,287	18,637	13,633	13,679
Lynn Gas and Electric Co. (Gas Dept.)	*	*	24,122	24,519	26,100	24,582
Mystic Valley Gas Co.	48,052	43,228	49,699	56,505	35,552	40,156
Northampton Gas Light Co.	5,559	4,225	5,175	5,809	4,326	4,394
North Shore Gas Co.	21,935	19,681	23,862	26,794	18,358	21,408
Norwood Gas Co.	1,655	1,980	2,396	2,640	2,134	2,601
Wachusett Gas Co.	<u>4,740</u>	<u>4,225</u>	<u>3,891</u>	<u>4,739</u>	<u>3,633</u>	<u>3,598</u>
Total	<u>\$101,681</u>	<u>\$ 91,970</u>	<u>\$130,688</u>	<u>\$146,208</u>	<u>\$108,461</u>	<u>\$115,452</u>
Elimination: Lynn Gas and Elec. Co. (Gas Dept.)	-	-	\$ 24,122	\$ 24,519	\$ 26,100	\$ 24,582
Total (7 Cos., excluding Lynn)	<u>\$101,681</u>	<u>\$ 91,970</u>	<u>\$106,566</u>	<u>\$121,689</u>	<u>\$ 82,361</u>	<u>\$ 90,870</u>

* Not available in filings with S.E.C.

Source: Annual Reports to Mass. D.P.U.
 submitted in 72-0 filing of S.E.C.

NEW ENGLAND ELECTRIC SYSTEM

Summary of Increases in Insurance Charges to Account 671 Under Independent Operation

<u>Cost of System Coverages Year 1958</u>		<u>Central Mass. Gas Company</u>		<u>Lawrence Gas Company</u>		<u>Lynn Gas Company</u>		<u>Mystic Valley Gas Company</u>		<u>North Shore Gas Company</u>		<u>Northampton Gas Light Company</u>		<u>Norwood Gas Company</u>		<u>Wachusett Gas Company</u>	
Deduct:		\$ 6,534		\$18,166		\$28,016		\$ 50,050		\$22,511		\$ 5,885		\$ 3,061		\$ 5,024	
Automobile Physical Damage Insurance		22	60			74		160		30		23		14		19	
Water Heater Warranty Bond		700	1,450			-		4,400		2,500		560		290		530	
Automobile Bodily Injury and Property Damage		550	1,900			1,500		4,100		1,400		500		300		600	
Group Life, A.D.& D. and A.& H.		450	1,255			1,300		3,770		1,360		300		160		230	
Total Deductions		1,722	4,665			2,874		12,430		5,290		1,383		764		1,379	
Balance charged principally to Account 671		\$ 4,812	\$13,501			\$25,142		\$ 37,620		\$17,221		\$ 4,502		\$ 2,297		\$ 3,645	
<u>Estimated Cost of Separate Coverages Year 1958</u>		\$26,070	\$59,082			\$65,500		\$146,835		\$67,433		\$21,709		\$11,220		\$19,705	
Deduct:		150	270			450		920		350		110		80		130	
Automobile Physical Damage Insurance		1,100	2,200			-		6,600		3,800		840		430		800	
Water Heater Warranty Bond		1,800	4,500			8,300		16,400		4,300		970		1,300		1,600	
Automobile Bodily Injury and Property Damage		1,680	3,200			3,800		7,640		3,770		1,300		1,090		1,460	
Group Life, A.D.& D. and A.& H.																	
Total Deductions		4,730	10,170			12,550		31,560		12,220		3,220		2,900		3,990	
Balance charged principally to Account 671		\$21,340	\$48,912			\$52,950		\$115,275		\$55,213		\$18,489		\$11,320		\$15,715	
Increase in amount charged to Account 671		\$16,528	\$35,411			\$27,808		\$ 77,655		\$37,992		\$13,987		\$ 9,023		\$12,070	

February 1961

NEW ENGLAND ELECTRIC SYSTEMSummary of Increases in Insurance Charges to Account 671
Under Independent and Combined Operation

	8 Companies Independent Operation	8 Companies Combined Operation
<u>Cost of System Coverages Year 1958</u>	\$139,247	\$139,247
Deduct:		
Automobile Physical Damage Insurance	402	402
Water Heater Warranty Bond	10,430	10,430
Automobile Bodily Injury and Property Damage	10,850	10,850
Group Life, A.D. & D. and A. & H.	8,825	8,825
Total Deductions	30,507	30,507
Balance charged principally to Account 671	\$108,740	\$108,740
<u>Estimated Cost of Coverages Year 1958</u>	\$420,554	\$293,751
Deduct:		
Automobile Physical Damage Insurance	2,460	1,300
Water Heater Warranty Bond	15,770	10,430
Automobile Bodily Injury and Property Damage	39,170	36,170
Group Life, A.D. & D. and A. & H.	23,940	14,160
Total Deductions	81,340	62,060
Balance charged principally to Account 671	\$339,214	\$231,691
Increase in amount charged to Account 671	\$230,474	\$122,951

February 1961

Eight (8) NEED Gas Companies
Statement Showing Comparison of Customer Accounting Payroll Costs
Actual and Pro Forma
Year 1958 *

Company	Total Customer 12/31/58 (a)	Customer Accounting Payroll Costs						Increase	
		Actual		Pro Forma		Amount		Per Cust. Percent	
		Amount (b)	Per Cust. (c) (b) ÷ (a)	Amount (d)	Per Cust. (e) (d) ÷ (a)	Amount (f)	Per Cust. (g) (f) ÷ (a)	Amount (f) (d) ÷ (b)	Percent (h) (g) ÷ (c)
Central Massachusetts Gas Co.	9,595	\$ 51,600	\$5.38	\$ 70,200	\$7.32	\$ 18,600	\$1.94		36%
Lawrence Gas Co.	32,801	144,400	4.40	171,500	5.23	27,100	0.83		19
Lynn Gas and Electric Co. (Gas Dept.)	40,922	168,400	4.12	306,100	7.48	137,700	3.36		82
Mythic Valley Gas Co.	98,773	378,000	3.83	512,800	5.19	134,800	1.36		36
Northampton Gas Light Co.	8,023	17,000	2.12	46,400	6.03	31,400	3.91		184
North Shore Gas Co.	33,113	143,300	4.33	189,900	5.73	46,600	1.41		33
Norwood Gas Co.	4,490	22,412	4.99	22,412	4.99	none	none		none
Wachusett Gas Co.	8,048	36,100	4.49	57,500	7.14	21,400	2.66		59
	235,765	\$961,212	\$4.08	\$1,376,812	\$5.85	\$417,600	\$1.77		43%

Div. Exhibit No. 2

* Source: Respondents Ex. 58A

EIGHT (8) NEES GAS COMPANIES
STATEMENT OF TOTAL DOMESTIC GAS SALES AND REVENUES
YEAR 1958

Division Ex. 3A

Company	No. of Domestic Customers 12/31/58 1/	Total Domestic Gas Sales		Domestic Operating Revenue	
		Mcf 2/	Mcf./Cust.	Amount 1/	Per Mcf Sold
	(a)	(b)	(c) b÷a	(d)	(e) d÷a
Central Massachusetts Gas Co.	9,128	357,346	39.1	\$ 749,076	\$82.06
Lawrence Gas Co.	31,124	1,178,760	37.9	2,572,745	82.66
Lynn Gas and Electric Co. (Gas Dept.)	38,842	1,181,742	30.4	2,803,188	72.17
Mystic Valley Gas Co.	94,993	3,353,465	35.3	8,029,276	84.52
Northampton Gas Light Co.	7,587	302,024	39.8	622,416	82.04
North Shore Gas Co.	31,313	1,020,130	32.6	2,519,065	80.45
Norwood Gas Co.	4,254	181,054	42.6	400,732	94.20
Wachusett Gas Co.	7,693	286,057	37.2	662,362	86.10
TOTAL	225,134	7,860,578	34.9	\$18,358,860	\$81.55
					\$2.3356

1444
 DIVISION EXHIBIT NO. 3A

Div. Exhibit No. 3A

1/ Source: Respondents Ex. 58A

2/ Source: Annual Returns to Mass. D.P.U. for 1958.

DIVISION EXHIBIT NO. 3B

EXHIBIT (B) NEED GAS COMPANIES
STATEMENT OF TOTAL DOMESTIC GAS SALES AND REVENUES
YEAR 1959

1445

DIVISION EXHIBIT NO. 3B

Div.

Company	Total		Domestic Gas Sales		Domestic Operating Revenue	
	Domestic Customers		Mcf 1/		Amount 1/	
	12/31/59	1/	(a)	(b)	(c)	(d)
			(a)	(b)	(c)	(d)
					b-a	d-a
						d-b
Central Massachusetts Gas Co.	9,236			410,836	44.5	\$ 839,192
Lawrence Gas Co.	31,013			1,379,582	44.5	2,868,732
Lynn Gas and Electric Co. (Gas Dept.)	38,777			1,319,770	34.0	3,023,447
Mystic Valley Gas Co.	95,343			3,782,862	89.7	8,735,436
Northampton Gas Light Co.	7,510			345,533	46.0	697,739
North Shore Gas Co.	31,368			1,165,278	37.1	2,773,308
Norwood Gas Co.	4,402			216,655	49.2	459,271
Wachusett Gas Co.	7,659			326,144	42.6	720,383
TOTAL	225,310			9,946,660	22.7	\$20,116,528
						2,2088
						\$2,2088

Div. Exhibit No. 3B

1/ Source: Annual Returns to Mass. D.P.U. for 1959

Division Ex. 3C

Eight (8) WES Gas Companies
Statement of Total Gas Sales and Revenues
Year - 1958

Company	Total Customers 12/31/58 1/ (a)	Total Gas Sales		Total Revenue from Sales of Gas	
		Mcf 2/ (b)	Mcf/Cust. (c) b ÷ a	Amount 1/ (d)	Per Cust. (e) d ÷ a
					Per Mcf Sold (f) d ÷ b
Central Massachusetts Gas Co.	9,595	607,376	63.3	\$1,021,105	\$106.42 \$ 1.6812
Lawrence Gas Co.	32,801	1,594,148	48.6	3,075,132	93.75 1.9290
Lynn Gas and Electric Co. (Gas Dept.)	40,922	1,844,416	40.2	3,667,374	89.62 2.2302
Mystic Valley Gas Co.	98,773	4,037,593	42.4	9,361,132	94.77 2.2355
Northerington Gas Light Co.	8,023	416,551	51.9	821,139	102.35 1.9713
North Shore Gas Co.	33,113	1,395,295	42.1	3,237,876	97.78 2.3206
Norwood Gas Co.	4,490	232,444	51.8	505,530	112.59 2.1748
Wachusett Gas Co.	8,048	341,554	42.4	788,804	98.01 2.3095
Total	235,765	10,419,182	44.2	\$22,478,092	\$ 95.34 \$ 2.1574

1/ Source: Respondents Ex. 58A

2/ Source: Annual Returns to Mass. D. P. U. for 1958.

Eight (8) NEES Gas Companies
Statement of Total Gas Sales and Revenues
Year 1959

Division Ex. 3D

	Total Customers 12/31/59 (a)	Total Gas Sales		Total Revenue from Sales of Gas		
		Mcf (b)	Mcf/Cust. (c) b÷a	Per Cust.		Per Mcf Sold (f) d÷b
				(e)	(d)	
Central Massachusetts Gas Co.	9,726	754,943	77.6	\$120.52	\$ 1,172,171	\$1.5527
Lawrence Gas Co.	32,807	2,085,404	63.6	107.93	3,540,911	1.6979
Lynn Gas and Electric Co. (Gas Department)	40,918	1,698,403	41.5	92.17	3,771,487	2.2206
Nystic Valley Gas Co.	99,330	4,874,213	49.1	103.16	10,248,773	2.1027
Northampton Gas Light Co.	7,967	466,767	58.6	115.72	921,910	1.9751
North Shore Gas Co.	33,252	1,638,676	49.3	109.23	3,632,262	2.2165
Norwood Gas Co.	4,656	281,001	60.4	125.66	585,053	2.0820
Wachusett Gas Co.	8,021	389,966	48.6	106.91	857,526	2.1590
Total	236,677	12,189,373	51.5	\$104.49	\$24,730,693	\$2.0288

Source: Annual returns to Mass. D.P.U. for 1959

NINE (9) NATURAL GAS COMPANIES IN MASSACHUSETTS
(included in Respondent's Ex. 90) 1/
STATEMENT OF TOTAL SALES AND REVENUES
Year 1958*

Division Ex. 4A

1449

DIVISION EXHIBIT NO. 4A

Name of Company	Total No. of Customers 12/31/58 (a)	Total Gas Sales Mcf (b)		Total Revenue from Sales of Gas Amount (d)		Per Cust. (e)		Per Mcf Sold (f)	
		Mcf/Cust. (c)		Per Cust. (e)		Per Mcf Sold (f)			
		b-a		d-a		d-b			
The Berkshire Gas Co.	24,963	1,732,128		\$ 2,954,276		\$118.35		\$1.7056	
Boston Gas Co.	305,248	17,401,200		33,402,008		109.43		1.9195	
Brockton Taunton Gas Co.	51,955	2,522,434		5,467,253		105.23		2.1674	
Buzzards Bay Gas Co.	5,454	882,117		1,477,802		270.96		1.6753	
Fall River Gas Co.	34,576	2,498,654		4,267,554		123.43		1.7079	
Haverhill Gas Co.	19,786	1,638,600		2,889,832		146.05		1.7636	
Lowell Gas Co.	29,206	2,959,857		4,035,088		138.16		1.3633	
Springfield Gas Light Co.	66,179	4,825,771		8,713,966		131.67		1.8057	
Worcester Gas Light Co.	77,940	7,828,971		12,851,969		164.90		1.6416	
TOTAL (9 Cos.)	<u>615,307</u>	<u>42,289,732</u>		<u>\$76,059,748</u>		<u>\$123.61</u>		<u>\$1.7985</u>	
Eliminations:									
Boston Gas Co. 2/	305,248	17,401,200		\$33,402,008		\$109.43		\$1.9195	
Buzzards Bay Gas Co. 3/	5,454	882,117		1,477,802		270.96		1.6753	
Total Elim. (2 Cos.)	<u>310,702</u>	<u>18,283,317</u>		<u>\$34,879,810</u>		<u>\$112.26</u>		<u>\$1.9077</u>	
TOTAL (7 Cos.)	<u>304,602</u>	<u>24,006,412</u>		<u>\$41,179,938</u>		<u>\$135.19</u>		<u>\$1.7154</u>	

*Source: Annual Returns to Mass. D.P.U. for 1958

1/ Cambridge Gas Co., New Bedford Gas and Ed. Lt. Co., and Fitchburg Gas and El. Lt. Co., included in Respondents Ex. 90, were excluded from this Statement because of joint affiliated gas and electric operations.

2/ Boston Gas did not convert to straight natural gas until 1960 (Source: Brown's Directory of American Gas Companies - 74th Edition).

3/ Per customer figures not comparable due to abnormally small number of customers reported at year end in relation to number of customers served during the year.

Div. Exhibit No. 4A

Division Ex. 4B

Names (7) Natural Gas Companies in Mass.
(Included in Respondent's Ex. 90) 1/
Statement of Total Gas Sales and Revenues
Year 1959 *

Name of Company	Total No. of Customers 12/31/59 (a)	Total Gas Sales Mcf (b)		Total Revenue from Sales of Gas Per Cust. (c)		Per Mcf Sold (d)	
		Mcf/Cust. (b) ÷ a		Per Cust. (c) ÷ a		Per Mcf Sold (d) ÷ b	
The Berkshire Gas Co.	24,862	1,959,582	78.8	\$ 3,254,370	\$ 130.90	\$ 1.6607	
Boston Gas Co.	307,114	19,143,900	62.3	35,124,821	114.37	1.8348	
Brockton Taunton Gas Co.	53,108	2,820,220	53.1	5,917,353	111.42	2.0982	
Buzzards Bay Gas Co.	6,171	998,875	161.9	1,710,131	277.12	1.7121	
Fall River Gas Co.	34,582	2,668,719	77.2	4,531,010	131.60	1.7053	
Haverhill Gas Co.	23,534	1,818,203	77.2	3,190,760	135.47	1.7549	
Lowell Gas Co.	29,995	3,290,973	109.7	4,444,777	148.18	1.3506	
Springfield Gas Light Co.	65,796	5,191,692	78.9	9,353,297	142.16	1.8016	
Worcester Gas Light Co.	78,638	8,237,488	104.8	13,413,867	170.58	1.6284	
Total (9 Cos.)	623,818	46,129,632	73.9	\$80,960,366	\$ 129.78	\$ 1.7551	
Eliminations:							
Boston Gas Co. 2/	307,114	19,143,900	62.3	\$35,124,821	\$ 114.37	\$ 1.8348	
Buzzards Bay Gas Co. 3/	6,171	998,875	161.9	1,710,131	277.12	1.7121	
Total Elim. (2 Cos.)	313,285	20,142,775	64.3	\$36,834,922	\$ 117.58	1.8287	
Total (7 Cos.)	310,533	25,986,877	83.7	\$44,125,414	\$ 142.10	\$ 1.6980	

* Sources: Annual Returns to Mass. D.P.U. for 1959.

1/ Cambridge Gas Co., New Bedford Gas and Ed. Lt. Co., and Fitchburg Gas and El. Lt. Co., included in Respondent's Ex. 90, were excluded from this statement because of joint affiliated gas and electric operations.

2/ Boston Gas did not convert to straight natural gas until 1960. (Source: Brown's Directory of American Gas Companies -- 74th Edition).

3/ Per customer figures not comparable due to abnormally small number of customers reported at year end in relation to number of customers served during the year.

2/ Per customer figures at year end in relation to number of customers served during the year.

Nine (9) Natural Gas Companies in Mass.
(Included in Respondent's Ex. 90) 1/
Statement of Total Domestic Gas Sales and Revenues
Year 1958 *

Division Ex. 4C

Name of Company	No. of Customers 12/31/58 (a)	Domestic Gas Sales		Domestic Operating Revenue	
		Mcf (b)	Mcf/Cust. (c) b ÷ a	Amount (d)	Per Cust. (e) d ÷ a
The Berkshire Gas Co.	23,273	1,106,115	47.5	\$ 2,195,863	\$ 94.35
Boston Gas Co.	204,628	9,684,000	34.0	24,340,724	85.52
Brockton Taunton Gas Co.	49,878	1,843,048	37.0	4,403,680	88.29
Buzzards Bay Gas Co.	4,748	295,528	62.2	774,851	163.20
Fall River Gas Co.	32,160	1,725,259	53.6	3,446,103	107.15
Haverhill Gas Co.	19,148	1,357,600	70.9	2,623,393	137.01
Lowell Gas Co.	27,412	1,853,628	67.6	3,135,112	114.37
Springfield Gas Light Co.	62,805	3,617,576	57.6	6,950,067	110.66
Worcester Gas Light Co.	73,011	4,622,451	63.3	8,670,323	118.75
Total (9 Cos.)	577,061	26,106,005	45.2	\$56,540,116	\$ 97.98
Eliminations:					
Boston Gas Co. 2/	284,628	9,684,000	34.0	\$24,340,724	\$ 85.52
Buzzards Bay Gas Co. 3/	4,748	295,528	62.2	774,851	163.20
Total Elim. (2 Cos.)	289,376	9,979,528	34.5	\$25,115,575	\$ 86.79
Total (7 Cos.)	287,685	16,126,477	56.1	\$31,424,541	\$109.23
					\$ 2.5135
					2.8219
					\$ 2.5167
					\$ 1.9466

* Source: Annual Returns to Mass. D.P.U. for 1958.

1/ Cambridge Gas Co., New Bedford Gas and Ed. Lt. Co., and Fitchburg Gas and Ed. Lt. Co., included in Respondent's Ex. 90, were eliminated from this statement because of joint affiliated gas and electric operations.

2/ Boston Gas did not convert to straight natural gas until 1960. (Source: Brown's Directory of American Gas Companies -- 74th Edition).

3/ Per customer figures not comparable due to abnormally small number of customers reported at year end in relation to number of customers served during the year.

Nine (9) Natural Gas Companies in Massachusetts
(Included in Respondent's Ex. 90) 1/
Statement of Total Domestic Gas Sales and Revenues
Year 1959 *

Name of Company	No. of Domestic Customers 12/31/59 (a)	Domestic Gas Sales		Domestic Operating Revenue	
		Mcf (b)	Mcf/Cust. (c) b ÷ a	Amount (d)	Per Cust. (e) d ÷ a
					Per Mcf Sold (f) d ÷ b
The Berkshire Gas Co.	23,101	1,242,132	53.8	\$ 2,408,737	\$104.27
Boston Gas Co.	286,143	10,705,200	37.4	25,677,894	89.74
Brockton Taunton Gas Co.	51,106	2,115,493	41.4	4,801,639	93.95
Buzzards Bay Gas Co.	5,364	369,498	68.9	922,489	171.98
Fall River Gas Co.	32,104	1,869,493	58.2	3,663,281	114.11
Haverhill Gas Co.	21,915	1,383,841	63.1	2,671,718	121.91
Lowell Gas Co.	28,089	2,051,001	73.0	3,395,763	120.89
Springfield Gas Light Co.	62,291	3,768,308	60.5	7,270,432	116.72
Worcester Gas Light Co.	73,537	5,200,654	70.7	9,455,199	128.58
Total (9 cos.)	583,650	28,705,620	49.2	\$60,267,152	\$103.26
Eliminations:					
Boston Gas Co. 2/	286,143	10,705,200	37.4	\$25,677,894	\$ 89.74
Buzzards Bay Gas Co. 3/	5,364	369,498	68.9	922,489	171.98
Total Elim. (2 cos.)	291,507	11,074,698	38.0	\$26,600,383	\$ 91.25
Total (7 cos.)	292,143	17,630,922	60.4	\$33,666,769	\$115.24
					\$1.9095

* Source: Annual Reports to Mass. D.P.U. for 1959.

1/ Cambridge Gas Co., New Bedford Gas and Ed. Lt. Co., and Fitchburg Gas and El. Lt. Co., included in Respondent's Ex. 90, were eliminated from this statement because of joint affiliated gas and electric operations.

2/ Boston Gas did not convert to straight natural gas until 1960. (Source: Brown's Directory of American Gas Companies - 74th Edition).

NEWS DIGEST

**FEDERAL POWER
COMMISSION**

VOL. XLIX - No. 27

WASHINGTON

Thursday, February 9, 1961

40 NEW ENGLAND UTILITIES PLAN LIQUEFIED NATURAL GAS STORAGE PROJECT: (Journal

of Commerce, February 7) -- By Lewis Brigham -- Forty gas utility firms in four New England States are pushing toward the construction of a natural gas liquefaction plant to help meet the area's chronic fuel price problem. Talked about for years, the formation of the New England Gas Pooling group last year is aimed at developing an underground refrigerated supply of liquefied methane during the low demand summer months to help offset heavy line withdrawals during the peak winter demand months. Impetus for the plan really originated three years ago when in the middle of the winter heating season the main line for one of the two natural gas transmission lines serving New England broke down. Additional impetus came from the dramatic success scored by the tanker, Methane Pioneer, which, outfitted with special aluminum and balsa wood tanks to hold the liquid methane at its required 258 degrees below zero during shipment, brought seven cargos of southwestern U. S. methane to the London, England, gas system.

Future developments for the Methane Pioneer plan of tankering liquefied methane await decision from the British Gas Council, but in the meantime, the New England gas companies are about to move themselves. At the same time, the American Gas Association has been conducting studies which will have a definite bearing on the New England program, even though carried out separately. The AGA research has been aimed at developing a more economic form of storing the methane which must be brought down to 260 degrees below zero in order to be kept in a liquid state. "Cryogenic," or underground, storage is the key to methane's commercial usage in gas utility operations, according to the AGA, which now says the best storage prospect is a concrete vault as opposed to the prohibitively expensive aluminum and balsa wood design used on the Methane Pioneer for its seven voyages to London.

In fact the AGA hopes to erect a pilot storage unit this fall at a site yet to be determined using reinforced concrete and insulated walls. This will be a small 1,000-barrel unit for experimental purposes primarily. While the details of the New England plan with regard to storing the liquefied methane have not been made clear as yet, chances are it will embody the AGA concrete approach to an extent. This is particularly true

inasmuch as New England lacks depleted gas fields where product can be stored as is the case in the southwest producing areas. Best bets for the location of both the gas liquefaction plant and storage area though is said by area utility observers to be somewhere near Worcester, Mass. which is central to the four states involved--Connecticut, Rhode Island, New Hampshire and Massachusetts. For the New England gas customers, as well as the firms themselves, the development could mean a real boom. Chronically beset with energy price problems during the winter months, the area is highly vulnerable to peak energy prices and line breakdowns.

The New England utilities would, of course, purchase the so-called "valley" gas, that is, the product available to the utilities in the summer when it is at its most plentiful and offered at its best rates. On this basis, the engineering firm of Stone and Webster is understood to have told the New England group that this "valley" gas would be available 15¢ per thousand cubic feet below the price indicated in earlier plans for Venezuela liquefied methane which could be tankered in during the winter to meet the season's peak demands. The transmission lines are expected to be enthusiastic over such an operation which would aid in leveling out the "peaks and valleys" of their seasonal demand pattern.

POWER PLANT AUTOMATION BREAKTHROUGH EXPECTED THIS YEAR: (New York Times,

February 5) -- By Gene Smith -- This is supposed to be the year for the automated electric power plant. Both engineers and manufacturers of automation equipment that controls the various operations of a modern power plant feel that the actual breakthrough will come this year, either in Louisiana or on the Pacific Coast. The Louisiana installation should have the first chance. It is the Little Gypsy plant of the Louisiana Power and Light Company, an operating subsidiary of the Middle South Utilities System. This parent company already has logged successful operations in certain phases of the automation field. Only last week at the winter meeting of the American Institute of Electrical Engineers, Gerhard L. Hollander said that a process control computer in Louisiana Power's Sterlington station had run almost continuously

(Continued on next page)

DC-F

day and night for six months in guiding a power plant's operations. It was out of use, for maintenance and related reasons, less than one percent of the time during this half-year test period. A spokesman for Middle South said that the Sterlington computer's performance actually had been "99.99 percent perfect." The computer was supplied by Daystrom, Inc., for the 225,000-kilowatt unit.

And Middle South also controls its three-state network--Arkansas, Louisiana and Mississippi--from a central dispatching office at Pine Bluff, Ark. The heart of this operation is a generation computer designed by Leeds & Northrup Company. The California chance will come later this year at the Southern California Edison Company's Huntington Beach generating station. The General Electric Company's computer department at Phoenix, Ariz., is supplying the computer equipment for what it described as "the world's most advanced computer--automated steam-electric power generating units." This computer-controlled system will start and stop the generating equipment, provide data-logging and alarm functions, make continuous performance calculations and maintain constant supervision of the generating units. This will mean continuous scanning to monitor conditions such as fuel and water flow, steam temperatures and pressures and electrical values.

Scanning must be done at rates up to 300 points a second, which is said to be the equivalent of digesting the contents of a 300-page book in five minutes. Each hour, 50 critical quantities that are needed for permanent records of operating conditions will be logged in a digital code and printed on an automatic typewriter in the form of common engineering terms. The new system is even equipped to handle automatically hot and cold starting, normal and emergency shut-downs and complete supervision of the boiler-turbine-generator systems. Utilities have long been users of computers for such relatively simple functions as billing and engineering department calculations and studies, as well as for automatic dispatching equipment to call on various power stations and units for best performance under all conditions. Industry spokesmen estimate 22 automation contracts have been signed for delivery of power-generating units linked with computers through 1964. Ebasco, the large consulting and engineering concern, expects to purchase at least six automation systems for power stations within six months. Thompson-Ramo-Wooldridge, Inc., reportedly has at least 18 propositions outstanding with consulting engineers and utilities for steam plant automation equipment.

The original reason for utilities to buy such equipment was simply the question of whether

it was cheaper to spend dollars for equipment or hire more workers. L. F. Kennedy, manager of G. E.'s system protection and control engineering operation, explained that today, as the processes become more and more complex and larger amounts are invested in equipment, man is no longer able to absorb all that is going on and to react fast enough to control efficient operations. "An operator today would have to have a fantastic memory and a pair of roller skates to duplicate the ability of a computer to effectively analyze 1,200 bits of information every 15 seconds, as will be done with future power stations," he said. Mr. Kennedy predicted that before 1970 the power industry would see all units of 250,000 kilowatts and larger digitally-controlled. Smaller units will follow soon after. W. J. McLachlan, manager of G. E.'s electric utility systems engineering operation, explained that a 500,000-kilowatt steam station could realize capitalized savings of about \$1,250,000 to \$2,750,000 through complete automation. A spokesman for Leeds & Northrup estimated that a digital computer and minimum associated gear would cost about \$250,000 if used for computation only. If control gear is added, the cost may be "two, three or ten times" as great depending on the end use, he said. Nevertheless, the company finds that about 20 percent of its over-all business comes from power plant instruments, controls and computers and that volume in this area is improving.

LAKE SUPERIOR DISTRICT POWER'S \$3 MILLION BONDS ARE AWARDED: (Wall Street Journal, February 8) -- Chicago -- Lake Superior District Power Company awarded its \$3 million of single-A rated first mortgage bonds to Salomon Bros. & Hutzler and Baxter & Co. The successful bid was 99.577 for a 4-5/8 percent coupon. That gave the utility, based in Ashland, Wis., an annual net interest cost of about 4.65 percent. Salomon Bros. and Baxter & Co. planned to release the bonds for general distribution, following compliance with Securities and Exchange Commission requirements, at 100.404, to yield 4.60 percent to maturity on February 1, 1991. Preoffering indications of retail interest in the issue at that price and yield were described as "from fair to good." The new 4-5/8s will be optionally redeemable by the utility at prices ranging from 105.03 down to par. Other bids came from Halsey, Stuart & Co., Inc., 99.414 for a 4-5/8 percent coupon; Kidder, Peabody & Co. and White, Weld & Co., jointly, 99.31 for a 4-3/4 percent coupon, and Robert W. Baird & Co., Inc., 99.949 for a 4-7/8 percent coupon. Lake Superior District Power will put the proceeds into its construction program.

1455 In the United States Court of Appeals for the First
Circuit

No. 6332

NEW ENGLAND ELECTRIC SYSTEM ET AL., PETITIONERS,

v.

SECURITIES AND EXCHANGE COMMISSION, RESPONDENT

ON PETITION FOR REVIEW OF AN ORDER OF THE SECURITIES AND
EXCHANGE COMMISSION

Before ALDRICH, *Chief Judge*, SWEENEY, *Chief Judge*,
and WYZANSKI, *District Judge*

John R. Quarles, with whom *Richard B. Dunn*, *Richard W. Southgate*, *John J. Glessner, III*, and *Ropes & Gray* were on brief, for petitioners.

David Ferber, Solicitor, with whom *Philip A. Loomis, Jr.*, General Counsel, *Ellwood L. Englander*, Assistant General Counsel, *Martin D. Newman*, Attorney, and *Solomon Freedman*, Director, Division of Corporate Regulation, Securities and Exchange Commission, were on brief, for respondent.

OPINION OF THE COURT

June 4, 1965

ALDRICH, *Chief Judge*. This is a petition seeking to review and set aside a divestment order of the Securities and Exchange Commission pursuant to section 11(b)(1) of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k(b)(1), requiring the petitioner, New England Electric System (NEES) to dispose of its gas utility properties by terminating its relationship with its eight subsidiary gas companies. The
1456 ultimate question in the case, which the Commission resolved against NEES, was whether divestiture would cause the loss of "substantial economies" within the meaning of the cited section.

(1455)

Briefly, NEES is a registered holding company controlling, at the time of the hearing, fourteen electric utility subsidiaries and eight gas subsidiaries, with some 824,000 retail electric customers in the states of New Hampshire, Massachusetts, Rhode Island and Connecticut, and some 237,000 retail gas customers in Massachusetts. Seventy-eight percent of its gas customers are also served by the electric companies. Except for certain peaks and emergencies the gas distributed is natural gas supplied by pipe line companies from the southern United States. The gas companies have separate offices and management, but their top officers are responsible to the top officials of NEES. There was a lengthy hearing before an examiner at which NEES sought to show that the cost of divestment to the electric system would be \$804,000 annually, and to the gas system, if operated as a single unit after severance, \$1,098,000.¹ The Commission held, *inter alia*, that the financial effect upon the electric system was not a relevant inquiry, but that if it was it was not significant. This we do not reach. It also held, which we do reach, that the claimed financial consequences to the gas system were not substantial as it construed the statute, but that if they were they had not been adequately proven.

Basic to its decision, as the Commission recognized at the outset of its opinion, is the meaning of the Act and the standards which it imposed. Briefly, section 11(b)(1) required divestiture unless NEES could satisfy the provisos
1457 or exceptions² contained in sub-paragraphs, or clauses, (A), (B) and (C). Clauses (B) and (C) were admittedly met. Clause (A) reads as follows:

"(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;"

Before considering whether the Commission's interpretation of this clause was correct we must determine what its inter-

¹ NEES' actual figure was \$1,165,000, but the Commission reduced this by \$67,000 as a result of a "revised basis of payments" authorized by it. NEES does not presently dispute this adjustment, but points out that the reverse adjustment must be made to the estimated electric system losses.

² The Commission uses the word "exceptions," and criticizes NEES' word "provisos." NEES' distinction, as we read it, was in response to a heavy burden of proof which the Commission sought to attach to exceptions. See fn. 4, *infra*.

pretation was. At the beginning of its opinion the Commission stated that to prevent divestiture NEES must show,

"that the additional systems were integrated in nature and 'were so small that they were incapable of independent economic operation' and had a 'real economic need' for management together with the principal system. Congress was aware that some loss of economies would usually result from the separation of jointly controlled utility systems, but considered that continued joint management should be permitted only where separation would entail a loss of economies which would be substantial in the sense that they were important to the ability of the additional system to operate soundly."

[Footnotes omitted.]

The Commission then quoted at length from a decision by the Court of Appeals for the District of Columbia,³ from which it drew the conclusion that clause (A) required a "showing by clear and convincing evidence" that such additional system cannot be operated under separate ownership without the loss of economies so important as to cause a serious impairment of that system." Lastly, at the end of its opinion, the Commission concluded that on the record it was unable "to find that the gas companies could not be

³ *Engineers Public Service Co. v. S.E.C.*, 138 F. 2d 936, 944 (1943). This case is extensively relied on in the Commission's opinion without noting that certiorari was granted, 322 U.S. 723 (1944), and the decision subsequently vacated as moot. 332 U.S. 788 (1947). (This omission is remedied in its brief.) We do not know whether the view of the majority, or the dissent of Judge Soper, which accords with ours, would have ultimately prevailed.

"The Commission has been criticized before for using this phrase, the court allowing it to pass, however, on the ground that it meant no more than the fair preponderance of the evidence, the ordinary burden of proof. *Philadelphia Co. v. S.E.C.*, D.C. Cir., 1949, 177 F. 2d 720, 725. We do not agree. This phrase has a well recognized meaning, and is applied in special cases, such as fraud, *Lackawanna Pants Mfg. Co. v. Wiseman*, 6 Cir., 1943, 133 F. 2d 482, 486, or mistake, *Philippine Sugar Estates Devel. Co., Ltd. v. Philippine Islands*, 1918, 247 U.S. 385, 391, as applied in *Aetna Ins. Co. v. Paddock*, 5 Cir., 1962, 301 F. 2d 807, 811. The Commission is to be criticized for continuing to use this language, which by its tone suggests to laymen, as well as to lawyers, a heavy burden. We suspect, from other statements in its opinion, that it accurately revealed the Commission's approach. If so, in any future proceedings the Commission should readjust its receptivity as well as its phraseology.

soundly and economically operated independently of NEES, even assuming the validity of * * * [its] estimates."

Thus the statutory phrase, "cannot be operated as an independent system without the loss of substantial economies," was said to mean, "incapable of independent economic operation;" "important to the ability * * * to operate soundly;" "so important as to cause a serious impairment of that system;" and "could not be soundly and economically operated."

In *Middle South Utilities, Inc.*, 35 S.E.C. 1, 11 (1953), its most recent decision cited in its opinion for the support of its interpretation, the Commission ordered a divestment because it had not been shown that it would "cause the serious economic impairment of the system or that the gas properties could not operate effectively and efficiently under separate ownership." (Ital. suppl.) Since presumably the

Commission did not intend to voice simultaneously two different standards we read the word "or" as introducing an explanation or equivalency. Essentially this second *Middle South Utilities* phrase is the sole standard that the Commission adopts in its brief before us.

Also may be noted the Commission's statement, in refutation of one of NEES' contentions, that "other independent gas utility companies in the state * * * nevertheless have been able to conduct their operations and, apparently, earn a fair return without the alleged advantages of common control with electric utilities by a holding company."

Taking the record as a whole we find its brief accurate, and that the Commission's interpretation is that a loss is not "substantial" unless it would render impossible "economical or efficient operation."⁵

As to the correctness of this interpretation we have not considered before the meaning of clause (A), and there is no uniformity of judicial view elsewhere. It is true that in *North American Co. v. S.E.C.*, 1946, 327 U.S. 686, 696-7, the court

⁵ NEES suggests there is no practical difference between preventing economical operation and bankruptcy. The Commission does not address itself to this question. We assume it believes there to be a difference, but except to the extent suggested in fn. 7, *infra*, we cannot find from its opinion what the difference is, or, more important, what is the standard by which uneconomical operation is determined. The very serious problem which this would present we do not reach because we disagree with the Commission's basic interpretation.

referred to section 11(b)(1) as permitting retention only of "relatively small [companies] * * * unable to operate economically under separate management without the loss of substantial economies * * *." This was a passing summary, and did not purport to be an exact characterization. The precise meaning was not relevant to the constitutional questions then under consideration, and even if the court's language is not considered ambiguous we do not take it as an attempt to resolve possibly intricate questions of construction. We turn, therefore, to other considerations.

Although we do not regard the legislative history as determinative, we begin there as the Commission makes much of it. Its principal reliance is upon the concluding remarks of Senator Wheeler on the floor after the bill had finally passed both branches. Senator Wheeler stated, *inter alia*, that the act permitted a holding company to retain more than one integrated system only when the additional systems " * * * were so small that they were incapable of independent economical operation." 79th Cong. Rec. 14479 (Aug. 24, 1935). We may note, at the outset, that only by a most generous interpretation is this statement part of the legislative history. Having come afterwards, it could not have affected the voting. The best reason for considering it as evidence of Congressional intent, see *United States v. United Mine Workers*, 1947, 330 U.S. 258, 279-80; *Duplex Printing Press Co. v. Deering*, 1921, 254 U.S. 433, 477; *cf. State Wholesale Grocers v. Great Atlantic & Pacific Tea Co.*, D.C.N.D. Ill., 1957, 154 F. Supp. 471, 485, *rev'd on other grounds*, 258 F. 2d 831, *cert. den.* 358 U.S. 947, is accordingly absent.* Furthermore, coming from the leading Congressional

* See Hart and Sacks, *The Legal Process: Basic Problems in the Making and Application of Law* (tent. ed. 1958) 1285:

"The views of individual members of the legislature as to the meaning of a statute which were not officially communicated to the legislature prior to its enactment are not competent to be considered in determining the meaning which ought to be attributed to the statute."

Nor could it have invited a presidential veto, since the President was a known advocate of a strong bill. See 79 Cong. Rec. 3425-26, 3469-70, March 12, 1935 (Message to Congress); *id.* at 9042, June 11, 1935 (letter to Senator Barkley and Senator Wheeler); *id.* at 14164, Aug. 22, 1935 (letter to Representative Rayburn).

advocate of strict separation, see, *e.g.*, 79 Cong. Rec. 1525, Feb. 6, 1935; *id.*, 4903 (radio address of April 2, 1935); *id.*, 14470,

Aug. 24, 1935 (remarks of Senator Norris), it would seem 1461 natural to regard it, at that stage of the proceedings, as a self-serving declaration. To the cynically minded it would seem to have been merely a post-contest attempt to raise the score, recapture what had been lost in the compromise with the House discussed *infra*, and to serve, just as is now being sought, to influence subsequent history. The best that should be said for Senator Wheeler's statement under these circumstances is that it is not to be given the weight to which it might have been entitled if made at another time.

The other pieces of legislative history related in the Commission's brief are a quotation from remarks by Representative O'Connor speaking "of 'a little power plant in Florida' or 'a little plant in Oklahoma' (79 Cong. Rec. 14168, Aug. 22, 1935)" and one from Representative Cooper, "who had opposed the motion, [and] had referred to systems retainable under Clause (A) as 'unprofitable companies * * * too weak to stand alone' (*id.* at 14165-14166)." Examination of Representative O'Connor's full statement rebuts the economic implication the Commission wishes us to attach to the word "little." It is evident that the remarks were addressed to geographical aspects, the absentee landlordism condemned in clause (B). It is true that Representative Cooper was speaking of clause (A). But it seems apparent that as an opponent of the bill he was strategically engaged in blackening it. According to him the compromise was no compromise whatever, a position demonstrably unsound. His interpretation of particular clauses must be read in that light. *Labor Board v. Fruit & Vegetable Packers & Warehousemen, Local 760*, 1964, 377 U.S. 58, 66.

A much more pertinent characterization of the phrase "substantial economies" is found in the statement of the House Managers attached to the conference report recommending 1462 passage of the compromise draft, that the retention of additional systems was to be permitted where there was a "real economic need." H.R. Rep. No. 1903, 74th Cong., 1st Sess., 71. This language, however, is itself ambiguous. Obviously there would be a real economic need to prevent a loss that would preclude efficient or effective operation. But there could also be said to be a real economic need to avoid any truly sizable financial loss notwithstanding the utility's

ability to absorb it and remain efficient in some absolute sense.⁷ For reasons we now come to we believe the statute is to be given this more general meaning.

The declaration of legislative objectives is found in section 1(b). Subsection (1) thereof concerns improper accounting practices, capitalization, etc., that may injure investors. Subsection (2) refers to excessive charges and other effects of transactions among companies within a holding company system. It also, together with subsection (3), refers to impediments occasioned by the holding company device to state regulation. We quote in full the remaining subsections, which declare the public interest to be adversely affected.

"(4) when the growth and extension of holding companies bears no relation to *economy of management and operation* or the integration and coordination of related operating properties; or

"(5) when in any other respect there is *lack of economy of management and operation* of public-utility companies or *lack of efficiency and adequacy of service* rendered by such companies, or lack of effective public regulation, or lack of economies in the raising of capital." (Ital. suppl.)

Pausing here we note in the underlined phrases two concepts, economy of management and operation, and efficiency (and adequacy) of service. The word "or" in clause (5) is clearly used in the disjunctive. This separate meaning is emphasized when we come to section 11(b)(1) clauses (A) and (C), *infra*. It will be sufficient to note here, for both present and future purposes, that the Commission has taken the word

⁷ We have already commented upon the Commission's failure to enunciate any standard beyond this broad generalization of economy or efficiency. See fn. 5, *supra*. Possibly its views are partly implied by the points made in its opinion when assuming that an annual loss of \$1,008,000 had been adequately established. The first was that while this amount is larger, absolutely, than losses required to be accepted in any previous case, it is not larger relatively. Secondly, that the loss would be only 23.28% of gross income, and 29.94% of net income before federal income taxes. (The word "only" is ours.) Third, that there are "other independent gas utility companies in the state which nevertheless have been able to conduct their operations and, apparently, earn a fair return * * * and * * * compete effectively * * *." Finally, that it "would be entering the realm of speculation at this time to assume that rate increases would ensue from severance."

"efficient" from this use in connection with service and joined it with the phrase "economy of management and operation," and has then built out of the combination the concept that until a loss of economy and efficiency is shown to be total there has been no loss of substantial economies under clause (A) within Congressional concern. We may note, also, an omission which we take seriously, that on the sole occasion that the Commission quoted clause (4) it substituted asterisks for the phrase we have italicized, and, although the legislative meaning of economies is the specific matter under consideration, has never referred to it. Clause (5), likewise, is never mentioned. Conceivably this may be good advocacy. We do not think it candid administrative practice.

The definitions of "integrated public-utility systems" are found in section 2(a)(29). Subsection (A) defines an integrated electric system as one which, *inter alia*, "may be economically operated as a single interconnected and coordinated system." Subsection (B) defines a gas system as where, 1464 *inter alia*, "substantial economies may be effectuated by being operated as a single coordinated system." During argument we inquired the reason for this difference. No suggestion was forthcoming. The only reason apparent to us is that in order for electric companies to constitute an integrated public utility system they must meet a technical requirement not applicable to gas companies seeking to qualify as an integrated system. Unlike gas companies, *General Pub. Util. Corp.*, 1951, 32 S.E.C. 807, 834-35, electric companies must be "physically interconnected or capable of physical interconnection." Where this requirement is met, so that actual interchanges of power could be made to meet power requirements at different points in the system, it was enough for Congress that the system as a whole "may be economically operated as a single inter-connected and coordinated system." Assuming the other qualifications were met electric companies would not have to prove that system ownership would be cheaper than independent ownership, probably because this could safely be assumed where there would be a sharing of power.

Coming to section 11(b), the primary provision, subsection (1) requires that holding companies be restricted to a single

integrated public utility system except when subclauses (A), (B) and (C) are satisfied. For clarity we quote in full.

"(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

"(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

"(C) The continued combination of such systems under the control of such holding company is not
1465 so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation."

These exceptions to section 11(b)(1) were added as a result of a compromise with the House. The original Senate bill had flatly restricted holding companies to a single integrated system. S. 2796, 74th Cong., 1st Sess. (1935). The House sought to permit as many systems as were consistent with the public interest. See H.R. Rep. No. 1318, 74th Cong., 1st Sess. 17 (1935). The Commission's then chairman objected that this would be intolerably indefinite. 79 Cong. Rec. 10838 (July 9, 1935) See also H.R. Rep. No. 1318, *supra*, at 45. Clauses (A), (B) and (C) were proposed as a compromise to establish "definite and concrete circumstances" where retention of more than one system would be allowed. Statement of House Managers, *supra*, at 70.

It is basic to the Commission's position that the phrase "substantial economies which can be secured by the retention of control" in clause (A) is fundamentally different from "substantial economies [that] may be effectuated by being operated as a single coordinated system" in section (29)(B).³

³The Commission is committed to this, and expressly so recognizes in its brief, because it rejected certain important evidence offered by NEES solely on the ground that the eight gas companies were conceded to be "a single integrated system." Since the Commission could not, either in good conscience or in law, accept as a concession a matter so fundamental, not only to the present proceedings, but for the future, if it were contrary to the fact, it stands that the Commission feels that saving \$329,400 annually by integrating the eight gas companies is effectuating substantial economies under section (29)(B), but that \$1,098,600 annually is not substantial economies under clause (A).

Such a contention, of course, is opposed to the common principle that the same words in different portions of an act are presumed to have the same meaning. In this case they are exactly the same.⁹ To overcome the presumption calls for an affirmative showing.¹⁰

Furthermore, we find the Commission's interpretation of clause (A) opposed to the initial statement of the purposes of the Act, *supra*, the tenor of which was that holding companies had been found uneconomical to investors and to the public. It is not inconsistent with this to say that systems which do not offend in this respect, or in the other respects defined in clauses (B) and (C), should be continued instead of broken up, and that occasioning a loss of impressive proven economies was not the Congressional purpose. This was a business reorganization act designed to produce a healthier economic structure in a vital industry. It established what, in the opinion of Congress, accomplished the best overall conditions. At the same time, Congress remained receptive to what, in a particular instance and within the limits established by clauses (B) and (C), might be affirmatively shown to be a more economical arrangement. We hold that clause (A) called for a business judgment of what would be a significant loss, not for a finding of total loss of economy or efficiency. *Louisiana Pub. Serv. Comm'n v. S.E.C.*, 5 Cir., 1956, 235 F. 2d 167, *rev'd on jurisdictional grounds*, 353 U.S. 368.

We are confirmed in this view by the fact that not only do clauses (B) and (C) contain additional conditions of retention, so that clause (A) need not be interpreted so as to cover the entire Congressional intent, but that these other clauses relate back fully to counterparts of the declarations of purpose made in section 1(b), and the attempts

⁹ The Commission's brief goes to some length in emphasizing the word "loss" in section 11(b)(1)(A). Sections 2(a)(29)(B) and 11(b)(1)(A) are not incomparable because the former speaks in terms of effectuating and the latter in terms of losing. The important comparison is the word "effectuated" in the one section and "secured" in the other. Both relate directly to "substantial economies."

¹⁰ In a special effort to make this showing counsel argues that there is a policy in the Act against an electric utility system being combined with a gas system. The short answer to this is that neither the Act, nor the Commission itself, says so. Since, however, counsel's argument is extensive we will reply in kind, but in order not to prolong this footnote we will do so in an appendix, *infra*.

to effectuate those purposes through the definitions made in section 2(a)(29), *supra*. Clause (A) would do the same were it not for the special restricted meaning that the Commission seeks to give it. The Commission, in other words, has attached to "substantial economies" in this one particular place a special meaning that nothing in the Act points to, and which, in fact, destroys its symmetry.¹¹

It might not be inappropriate to conclude with the quotation with which the Commission began a section of its brief. "As was stated [the brief says] in the report of the National Power Policy Committee: '[I]ntensification of economic power beyond the point of proved economies not only is susceptible of grave abuse but is a form of private socialism inimical to the functioning of democratic institutions and the welfare of a free people.' * * * H. Doc. No. 137, 74th Cong., 1st Sess. 4 (1935), appended to S. Rep. No. 621, 74th Cong. 1st Sess." We cannot think that "proved economies" any more than "substantial economies," mean anything other than economies which in ordinary business parlance and by ordinary business standards are of a substantial nature, considering, of course, the size of the companies to which the economies relate.¹²

1468 Clearly that was what was meant elsewhere in the Act.

If in clause (A) Congress meant, instead, "cannot be operated efficiently as an independent system" it could readily have done so not only more clearly, but in fewer words.

The Commission's only answer is "the policy of the Act." We think the policy of the Act is to be found in the whole Act, not in one part. NEES has the burden of proving that it falls within an exception. This is enough, without a forced reading into that exception of some special meaning.

We regret the length of this discussion. Since, however, we find the Act not only consistent, but entirely responsive to

¹¹ Drawing an equivalence between the proviso contained in clause (A) to section 11 and the corresponding requirements for an integrated gas system under section 2(a)(29)(B) nullifies no technical requirements in the definition of an integrated gas system because there are none. The definition of an integrated electric system under section 2(a)(29)(A) does contain some technical requirements, as has been pointed out, but these, also are not nullified by our interpretation of clause (A) since it remains stricter than section 2(a)(29)(A)'s requirement that the electric system "may be economically operated."

¹² In this case the claimed losses are over 23% of gross income. See fn. 7. *supra*.

analysis, we feel such analysis called for in fairness to those persons, whether investors or consumers,¹³ who must absorb perhaps a million dollars a year (quite apart from over \$800,000 allegedly lost to the electric system) which the Commission finds insubstantial.

The Commission having applied the wrong standard, its decision must be reversed unless on the record there could have been no finding in NEES' favor on the appropriate standard. We think clearly there could have been. NEES' case was based essentially upon a study made for it by Ebasco Services, Inc., (Ebasco), a management consultant which the Commission found possessed extensive experience in the utilities field. No rebuttal evidence, other than some exhibits, was offered on behalf of the Commission, which grounded its rejection of the report, to the extent that it did reject it, solely on criticism of the report's conclusions in the light of NEES' evidence or its own expertise. Its specific criticisms related to that portion of the report which dealt with certain costs totaling \$472,100 or, more specifically, for the most part, customer and accounting costs included therein, for which the Ebasco estimate was \$415,600. The first criticism concerned billing. The circumstances were these. Ebasco's original study was made on the assumption that the gas companies would be individually managed. On this hypothesis it naturally assumed that each company would conduct separate customer billing. When the Commission took the position that the gas companies constituted a single integrated system and should be sold as such, Ebasco was required to reduce its estimate by the amount attributable to operating the gas companies individually rather than as a unit. It made no reduction with respect to customer billing.

On this subject NEES called three witnesses. One Quig, a representative of Ebasco with ample qualifications, testified to certain accounting savings that could be effected if the gas companies were operated collectively rather than individually. He stated, however, that Ebasco would not recommend, at

¹³ The Commission's finding it significant that it was sufficiently shown that this loss would require an increase in rates "at this time," fn. 7, *supra*, not only disregards the fact that the cost of doing a utility business normally is passed on to consumers eventually, but the fact that one of the purposes of the Act was to benefit legitimate investors.

least at the outset, centralization of certain matters, including billing; that a continuing study might show that further centralization would prove useful, but that it was by no means clear that economy lay in that direction, and that it would depend on such factors as business growth, new developments in mechanization, etc. Subsequently one Dalbeck, the principal officer of NEES' gas division, testified that it was conceivable that centralized billing might be effected to some degree, but that in his opinion it was not really important cost-wise; that he had made many studies of customer accounting procedures and had never found any real economies in centralization of billing. Thereafter one Johnson, an Ebasco representative with particular experience in customer accounting, testified that a detailed study would have to be made, which

Ebasco had not done; that based upon his experience he
 1470 had considered centralized billing for the combined operation and had made the judgment that there would be no economy, or at least "any substantial savings." The witness was cross-examined at length and showed a wide knowledge not only of specialized mechanical equipment in this area and the problems involved, but also of the particular practices of a large number of named utilities in various parts of the country. He recognized that in many instances centralized billing prevailed, but continued to express doubts as to how much was saved thereby.

The Commission's response to this was to point out that some of the NEES gas companies presently combined their billing with the electric companies in their areas. This matter had been explained by NEES' witnesses, who pointed out, *inter alia*, the duplication of customers, which would not exist in the case of gas companies operating alone. The Commission concluded, however, that NEES had not "given any satisfactory reason why at least some form or forms of combined billing procedure could not be employed advantageously by the gas companies, in light of the fact that their aggregate of 237,000 customers is located in a relatively compact area."

We have serious doubts as to the extent that the Commission is entitled to disregard an opinion on a matter obviously requiring expert, specialized knowledge with no further evidence before it than what had been considered by the accepted expert. Cf. *United Shoe Mach. Corp. v. Industrial Shoe Mach. Corp.*, 1 Cir., 1964, 335 F. 2d 577, 579, cert. den. 379 U.S. 990;

Security-First National Bank v. Lutz, 9 Cir., 1963, 322 F. 2d 348, 355; *Alvary v. United States*, 2 Cir., 1962, 302 F. 2d 790, 794; *Cullers v. Commissioner*, 8 Cir., 1956, 237 F. 2d 611, 616. This is not a matter on which a body having such broad jurisdiction as the Commission can have detailed expertise upon which to base affirmative findings. Compare *Market* 1471 *St. Ry. v. Railroad Commission*, 1945, 324 U.S. 548, 560.

Without finally passing upon this point, since the case must go back in any event, we suggest that on this record the maximum the Commission was warranted in inferring was that the difference in costs between separate and combined billing would not, if significant at all, constitute a sizable portion of the total added billing expense.

This brings us to what was the added billing expense, and hence the amount of error attributed to the Ebasco report because of its failure to assert the saving which, in the Commission's opinion, could be effected by having centralized billing. The Commission concluded merely that Ebasco's failure caused the estimate to be "overstated." It did not concern itself with discovering even what were the total increased billing costs, let alone the portion (obviously not the whole) which might be saved if centralized billing were adopted. It did find that the increased billing costs estimated for two of the eight gas companies, billing singly after divestiture, was \$34,700 for the two. These companies covered more than half of NEES' gas customers. On a pro rata basis this would make the total billing increase for all companies \$60,000. While doubtless such a projection is not precise, it seems significant that the Commission was not sufficiently interested to make any at all. Under the circumstances we do not think it unreasonable for us to point out that while the Commission was purportedly criticizing a cost estimate of over \$400,000, strictly it was speaking of perhaps \$60,000, only a portion of which could have been overstated.

We might have more sympathy with some, but not all, of the Commission's criticism of certain other alleged accounting disparities. Frankly, we are not sufficiently versed, nor do we find the record sufficiently helpful, to permit our analyzing them in every detail. However, it has not been 1472 contended that, even cumulatively, they remove from the Ebasco \$472,000 cost estimate many sizable items.

After discussing the above matters the Commission said,

"In view of respondent's burden of proof and the absence of a persuasive explanation on the record, Ebasco's failure to consider employment of combined billing procedures and its inadequately explained disparate treatment of certain effects of severance on the gas and electric companies, respective, substantially impair the credibility and preclude the acceptance of its estimate of a \$472,100 increase in treasury and accounting costs and, in turn, of its over-all estimate of increased costs (of which that figure is a material part) in the determination of whether severance would result in a substantial loss of economies."

If this constitutes a finding that the deficiencies which the Commission believes it has found are so serious that the Commission was entitled to reject the balance of the report from that very fact, we cannot agree. The doctrine of "*falsus in uno, falsus in omnibus*," so far as it has any value, ordinarily applies to cases of deliberate falsehood. See 3 Wigmore, Evidence § 1013 (3d ed. 1940). The Commission has not suggested, and we see no possible basis for suggesting, that the discrepancies it complains of indicate bias or dishonesty. Absent a finding that the errors found are related to, or infect, other matters not directly discredited, if the "*falsus in uno*" doctrine, or a corollary, is to be used on any further basis to impeach an expert's report, it must be shown that the errors are so serious that they indicate substantial carelessness, or otherwise impugn the expert's qualifications. See, e.g., *Hoag v. Wright*, 1903, 174 N.Y. 36, 43; 66 N.E. 579, 581. Again, the Commission made no such findings. If there was a ground for them it has not been suggested. Indeed, the Commission demonstrated its confidence in Ebasco elsewhere by accepting its cost estimates as the basis for concluding that the gas companies constitute an integrated system.

On the record there is a large, residual showing in the Ebasco report. Even at minimum it is \$1,098,000 minus some fraction of \$472,000. However, we do not think it presently appropriate for us to consider whether such minimum showing meets our interpretation of "substantial economies." We do state, however, that on remand the Commission must address itself to this problem by making specific findings, and not content itself with general conclusions. One illustration of this will suffice. The Commission states in its brief that it "had

the right to consider competitive advantages of separation in offsetting alleged losses of economies." We do not question this. What we do question is the Commission's failure to find or articulate any specific or approximate financial benefit that such a change would occasion. Free competition, as the Act recognizes, is normally beneficial. It is not necessarily so, nor in any assumed amount. The various automotive divisions of General Motors seem to do very well. More close to home, the Massachusetts Department of Public Utilities, which voices no apparent criticism of a number of combined local gas and electric companies within the Commonwealth, affirmatively appeared in opposition to the Commission's proceeding in the present case. The Commission states that the Department's views have been "carefully considered," but it goes no further. If the Commission is of opinion that substantial gains will accrue to the gas system by placing it in competition with the electric companies rather than, in part, under the same roof, specific findings should be made, and not just a general reference to the advantages of competition. This is particularly called for where the evidence shows that NEES has made a special effort to obtain for its gas system many of the benefits of independence.

1474 *Decree will be entered vacating the order of the Commission and remanding for further action not inconsistent herewith.*

APPENDIX

In the Commission's brief counsel argues that section 11(b) embodies a federal concern with use of the holding company form to combine a gas system with an electric system. There are several answers to this. In the first place, it is too specialized an approach. The meaning of this section and of sub-clauses (A), (B) and (C) must be the same whether the principal system and the additional systems are of like nature or are different. "Substantial economies," in other words, should have the same connotation in the one case as in the other.

Secondly, nowhere in the Act is there a condemnation of the retention of gas and electric systems, provided the tests contained in clauses (A), (B) and (C) are met. To the contrary, section 8 prohibits a holding company's acquisition of gas and electric utilities serving the same territory, where state law pro-

hibits combined gas and electric operations, without express approval of the state commission. If anything, this is a negative pregnant, as the Commission has recognized and the legislative history makes clear. See *Northern States Power Co.*, 1954, 36 S.E.C. 1, 8; S. Rep. No. 621, 74th Cong., 1st Sess., 29-30; H.R. Rep. No. 1318, *supra*, at 14-15; Report of National Power Policy Committee, H.R. Doc. No. 137, 74th Cong., 1st Sess., 10 (1935), appended to S. Rep. No. 621, *supra*, at 59; Hearings Before House Committee on Interstate and Foreign Commerce on H.R. 5423, 74th Cong., 1st Sess., 330 (1935) (statement of Rep. Rayburn). How far such an inference may be carried in the light of the fact that section 10(c), which prescribes the standards for acquisitions, expressly incorporates the retention standards, and requires further that an acquisition tend toward the development of an integrated system, may be questioned. Cf. *American Water Works & Elec. Co.*, 1937, 2 S.E.C. 972, 983 & n. 3; *Columbia Gas & Elec. Corp.*, 1941, 8 S.E.C. 443, 462-63; *American Gas & Elec. Co.*, 1946, 22 S.E.C. 808, 815. But at least we find neither there nor elsewhere in the Act a general policy of opposition to gas and electric company joinder.

Nor, if the matter could be thought to be illuminated by administrative practice, has the Commission previously made such an interpretation, nor does it now. In its opinion the Commission stated, "We do not take the view that the Act expresses a federal policy against combined gas and electric operations as such." Counsel's attempt to explain this away by saying the Commission's phrase "as such" meant simply that the Commission was disclaiming interest when the interstate holding company form was not employed, attributes to the Commission the banality that it was not claiming jurisdiction in those cases where obviously it does not have it. We believe the Commission was saying something more than this, and that counsel, in the brief, is merely seeking some new ground to support the Commission's result.

1476 In the United States Court of Appeals for the First Circuit

Judgment—JUNE 4, 1965.

This cause came on to be heard upon petition to review and set aside an order of the Securities and Exchange Commission, and was argued by counsel.

Upon consideration whereof, It is now here ordered, adjudged and decreed as follows: The order of the Commission is vacated, and the case is remanded for further action not inconsistent with the opinion filed today.

By the Court:

/s/ ROGER A. STINCHFIELD,
Clerk.

Approved,

/s/ ALDRICH, Ch. J.

1477 [Clerk's Certificate to foregoing transcript omitted in printing.]

1479 Supreme Court of the United States

October Term, 1965

No. 636

SECURITIES AND EXCHANGE COMMISSION, PETITIONER

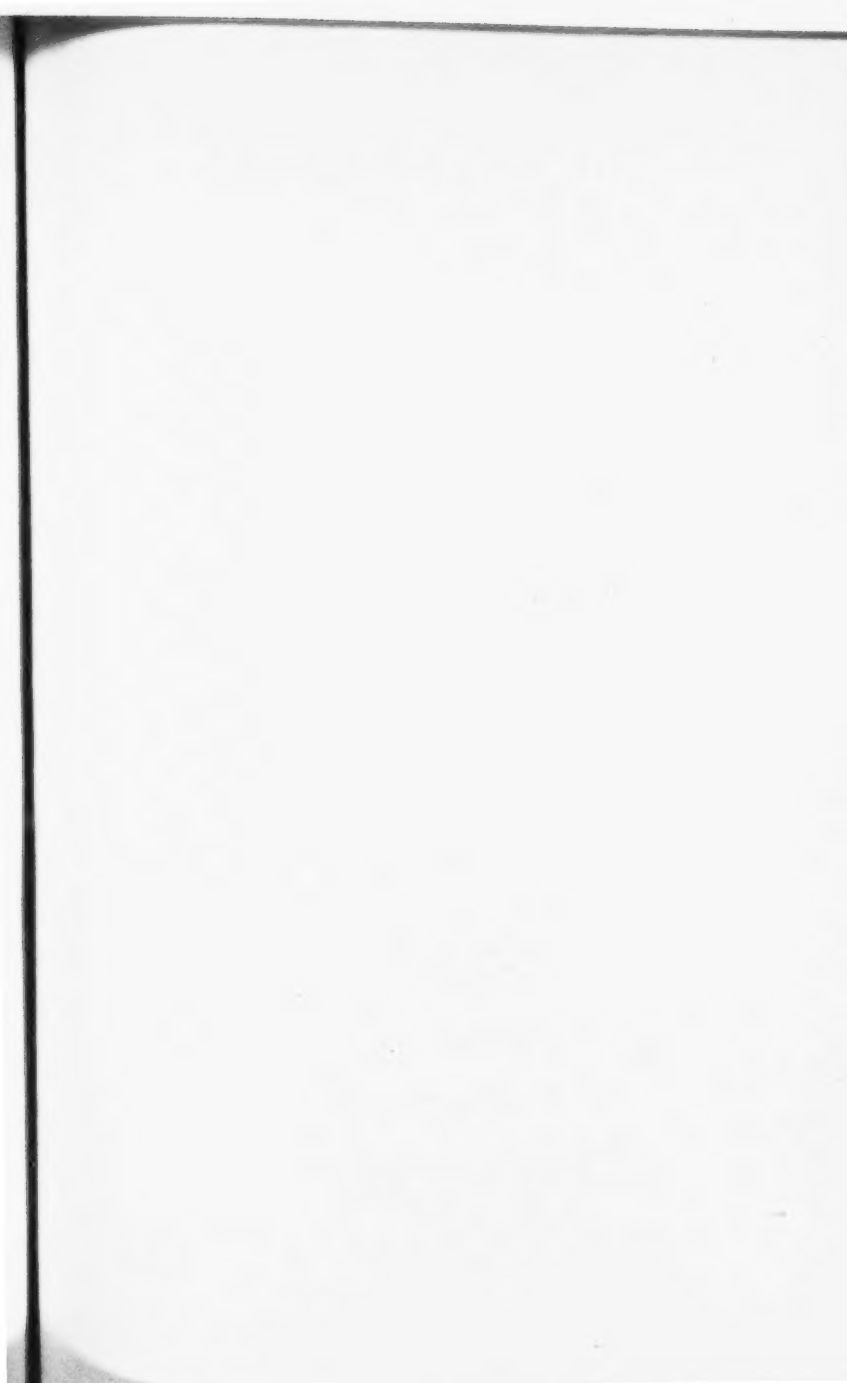
v.

NEW ENGLAND ELECTRIC SYSTEM, ET AL.

Order allowing certiorari—December 13, 1965

The petition herein for a writ of certiorari to the United States Court of Appeals for the First Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.



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In the Supreme Court of the United States

OCTOBER TERM, 1965

No. —

SECURITIES AND EXCHANGE COMMISSION, PETITIONER

v.

NEW ENGLAND ELECTRIC SYSTEM, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

The Solicitor General, on behalf of the Securities and Exchange Commission, petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App. A, *infra*, pp. 1a-23a) is reported at 346 F. 2d 399. The findings and opinion of the Securities and Exchange Commission, dated March 19, 1964 (R. 1254-1282), are unreported.

JURISDICTION

The judgment of the court of appeals was entered on June 4, 1965 (App. A, *infra*, p. 24a). On Sep-

tember 2, 1965, Mr. Justice Black extended the time to file a petition for a writ of certiorari to and including October 2, 1965. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Section 11(b)(1) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79k(b)(1), permits a registered holding company to control one or more integrated public-utility system in addition to its principal integrated system only if the Commission finds, *inter alia*, that "Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system * * *." The question presented is whether the court erred in rejecting the Commission's longstanding interpretation that, under this provision, "the loss of substantial economies" must be such as to render the additional system incapable of sound and economical operation independent of the principal system.

STATUTE INVOLVED

Section 11(b)(1) of the Public Utility Holding Company Act of 1935, 49 Stat. 820, 15 U.S.C. 79k(b)(1), provides in pertinent part:

It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company

thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system, * * * *Provided, however,* That the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system * * *.

STATEMENT

On August 5, 1957, the Securities and Exchange Commission instituted proceedings under Section 11(b)(1) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79k(b)(1), to determine the extent to which New England Electric System ("NEES"), a registered holding company, could lawfully retain control over the electric, gas and other properties in its holding company system. The initial phase of the proceedings terminated on February 20, 1958, when the Commission held that the electric utility subsidiaries of NEES comprised an "integrated electric utility system" as defined in Section 2(a)(29)(A) of the Act, 15 U.S.C. 79b(a)(29)(A).¹ NEES elected to retain its electric system as its "single" or "principal"

¹ *New England Electric System*, 38 S.E.C. 193.

system, and the Commission proceeded to conduct hearings on the question whether its gas utility subsidiaries, which all parties agreed to consider as an "integrated gas utility system" (see 15 U.S.C. 79b(a) (29)(B)), could be retained as an "additional" integrated utility system under Section 11(b)(1).²

At the commencement of the gas integration proceedings, NEES controlled, *inter alia*, fourteen electric utility companies, eight gas utility companies, and a service company. Its electric companies served 824,000 retail customers in a franchise area of 4,600 square miles within the States of New Hampshire, Massachusetts, Rhode Island and Connecticut (R. 1256-1257).³ Its gas companies provided retail service to 237,000 customers in a franchise area of 660 square miles entirely within Massachusetts. Seventy-five percent of this area was also part of the franchise area of NEES's electric subsidiaries (R. 1257). Of the twelve nonaffiliated Massachusetts gas companies which respondents selected for comparison with NEES, only one exceeded the NEES gas utility system in size of gross plant, gross annual revenues and number of customers (R. 1272, n. 24).

² NEES has not contested the Commission's longstanding interpretation that an "integrated public-utility system" cannot include both gas and electric utility properties. See *Columbia Gas & Electric Corp.*, 8 S.E.C. 443, 461-463; *The United Gas Improvement Co.*, 9 S.E.C. 52, 77-83.

³ Unless otherwise indicated, the figures used in the record are for the year ended December 31, 1958, which was the latest year for which audited financial statements were available at the time of the hearings (R. 1257).

After a full hearing, the Commission determined that the divestment of NEES's gas utility companies would not result in a loss of substantial economies to those companies within the meaning of Section 11(b)(1)(A) (R. 1255-1280) and ordered that they be divested (R. 1280-1281). In so holding, the Commission applied the same interpretation of "loss of substantial economies" that it had applied in every other divestiture case under Section 11(b)(1):⁴ i.e., "such additional system cannot be operated under separate ownership without the loss of economies so important as to cause a serious impairment of that system" (R. 1262-1263). Under this test, the Commission held that, on the basis of the record before it, it was unable "to find that the gas companies could not be soundly and economically operated independently of NEES * * *" (R. 1279).⁵

⁴ A list of the holding companies which have been ordered to divest assets under the Commission's interpretation of the statutory test is included as Appendix B to this petition. For situations in which the Commission has held that "additional" systems are retainable under its construction of "substantial economies", see, e.g., *North American Co.*, 11 S.E.C. 194, 243-244; *Republic Service Corp.*, 23 S.E.C. 436, 451; *Federal Light & Traction Co.*, 15 S.E.C. 675, 683; cf. *North American Co.*, 32 S.E.C. 169, 178-180.

⁵ The Commission noted that NEES had attempted to sell its gas properties, as a unit, in the early 1950's. The sale was not consummated, however, because the high bidder was unable to obtain the required financing (R. 1258, 1264, n. 13). In its application for Commission approval for the sale, NEES indicated that the sale of the gas properties was proposed as a step in effectuating compliance with the integration provisions of Section 11(b)(1). See Holding Company Act Release No. 11018 (Jan. 22, 1952).

On petition for review, the court of appeals reversed. The court's holding was not that the Commission's conclusions were unwarranted under the test which it had applied; the court based its reversal on the ground that the Commission had misinterpreted the statutory phrase "loss of substantial economies" (App. A, *infra*, pp. 6a-16a). Expressing its agreement with the dissenting opinion in *Engineers Public Service Co. v. Securities and Exchange Commission*, 138 F. 2d 936, 944-945 (C.A.D.C.), certiorari granted, 322 U.S. 723, vacated with directions to dismiss the petition for review as moot, 332 U.S. 788 (App. A, *infra*, p. 4a, n. 3), the court held that Section 11(b) (1)(A) "called for a business judgment of what would be a significant loss, not for a finding of total loss of economy or efficiency" (App. A, *infra*, p. 14a). In reaching this conclusion, the court rejected the Commission's view of the legislative history, which had been accepted by the Court of Appeals for the District of Columbia Circuit in *Philadelphia Co. v. Securities and Exchange Commission*, 177 F. 2d 720, 725. Instead it relied on language in the Act's statement of purposes, "the tenor of which was that holding companies had been found uneconomical to investors and to the public" (App. A, *infra*, p. 13a) and on its view that the Act has a "symmetry," which the Commission's interpretation destroys (App. A, *infra*, p. 14a). Finding that "on the record there could have been [a] finding in NEES's favor on the appropriate standard" (App. A, *infra*, p. 16a), the court remanded the case to the Commission.

REASONS FOR GRANTING THE WRIT

The decision below is directly in conflict with the decisions of the District of Columbia Circuit in *Engineers Public Service Co. v. Securities and Exchange Commission*, 138 F. 2d 936, certiorari granted, 322 U.S. 723, vacated with directions to dismiss the petition for review as moot, 332 U.S. 788, and *Philadelphia Co. v. Securities and Exchange Commission*, 177 F. 2d 720. It also is inconsistent with a decision of the Second Circuit and may be at variance with one of the Fifth Circuit.⁶ In reaching its decision, the court below rejected the Commission's longstanding interpretation of Section 11(b)(1)(A) in favor of a reading which, we believe, is inconsistent with the basic policies of the Act. As we pointed out in our petition for certiorari, which the Court granted, in *Securities and Exchange Commission v. Louisiana Public Service Commission*, 353 U.S. 368, reversing on jurisdictional grounds 235 F. 2d 167 (C.A. 5), the definitive determination of the meaning of clause (A) may affect substantial utility interests in all parts of the country. Since then, the number of companies potentially affected by that determination has increased. If allowed to stand, therefore, the decision below would seriously interfere with the proper administration of Section 11, which this Court has recognized to be "the very heart" of the Act. *North American Co. v. Securities and Exchange Commission*, 327 U.S. 686, 704, n. 14.

⁶ *North American Co. v. Securities and Exchange Commission*, 133 F. 2d 148 (C.A. 2), affirmed on the constitutional issue, 327 U.S. 686; *Louisiana Public Service Commission v. Securities and Exchange Commission*, 235 F. 2d 167 (C.A. 5), reversed on jurisdictional grounds, 353 U.S. 368.

1. In both the *Engineers* and the *Philadelphia Co.* cases, the District of Columbia Circuit expressly considered and approved the Commission's interpretation of Section 11(b)(1)(A). Like the present case, those cases involved the question whether a holding company with a principal electric utility system could retain its gas properties as an additional system. In ruling on the meaning of "loss of substantial economies" under Section 11(b)(1)(A), the court stated in the *Engineers* case (138 F. 2d at 944):

"Substantial economies" means something different and, we think, something more than substantial savings in operational expenses. Congress could have said that the divorcement shall not be decreed if the controlling utility or the controlled utility show at a hearing that the cost to operate the latter separately from the former would be substantially greater. * * * "Substantial economies" must mean * * * "important economies." The required *importance* must relate to the healthful continuing business and service of the freed utility.⁷ * * *

In *Philadelphia Co.*, the court observed (177 F. 2d at 725):

In the Commission's view, economies are not "substantial" unless their loss "would cause a serious economic impairment of the system"

⁷ The court further observed that "Congress was not so much concerned with the profit motive of utilities as with the evils that had become prevalent through combinations of utilities. It was first concerned with the wiping out of the evils which the practice of utility combinations had produced, and Congress only consented to dull the blade of its chosen weapon in proved hard cases." 138 F. 2d at 944.

such as to "render it incapable of independent economical operation." * * * We cannot say the Commission's understanding of the term "substantial economies" is wrong. We construed it similarly in the Engineers case.

The court expressly noted in that case that its interpretation of the Act—which is the same as the Commission's—is fully supported by the legislative history (177 F. 2d at 725).⁸

⁸ The court made specific reference to the Statement of the Managers on the Part of the House accompanying the Conference Report, H. Rep. No. 1903, 74th Cong., 1st Sess. (1935), and to the remarks of Senator Wheeler, the chief Senate conferee, 79 Cong. Rec. 14479 (August 24, 1935). In pertinent part, the House Managers' statement is as follows (pp. 70-71):

* * * Section 11 of both [House and Senate] bills * * * authorizes the * * * Commission to require a holding company to limit its control over operating utility companies to one integrated public-utility system.

* * * * *

The conference substitute meets the House desire to provide for further flexibility by the statement of additional definite and concrete circumstances under which exception should be made to the form of one integrated system. * * *

The substitute, therefore, makes provision to meet the situation where a holding company can show a real economic need on the part of additional integrated systems for permitting the holding company to keep these additional systems under localized management with a principal integrated system.

Senator Wheeler's statement, given a few moments after the Senate had agreed to the Conference Report, was that:

* * * the Senate conferees concluded that the furthest concession they could make would be to permit the Commission to allow a holding company to control more than one integrated system if the additional systems * * * were so small that they were incapable of independent economical operation * * *.

The decision below is directly in conflict with these decisions of the District of Columbia Circuit. That court read "substantial economies" as meaning "something more than substantial savings in operational expenses" (*Engineers*), i.e., economies whose "loss 'would cause a serious economic impairment of the system' such as to 'render it incapable of independent economical operation'" (*Philadelphia Co.*). The court below, on the other hand, held (App. A, *infra*, pp. 15a, 14a) that "substantial economies" means only "economies which in ordinary business parlance and by ordinary business standards are of a substantial nature," loss of which would be "a significant loss, not * * * total loss of economy or efficiency." Indeed, the court below implicitly recognized that its decision was in conflict with *Engineers*, since it stated (App. A, *infra*, p. 4a, n. 3) that it agreed with the dissenting opinion of Judge Soper in that case.

Moreover, as the court below recognized (App. A, *infra*, p. 6a), even before its decision was rendered "there [was] no uniformity of judicial view" as to the meaning of Section 11(b)(1)(A). In *North American Co. v. Securities and Exchange Commission*, 133 F. 2d 148, affirmed on the constitutional issue, 327 U.S. 686, the Second Circuit, without extended discussion of the statutory interpretation issue, upheld a divestiture order which the Commission had entered on the basis of its construction of Section 11(b)(1)(A).⁹ In *Louisiana Public Service Commis-*

⁹ Although its opinion is somewhat ambiguous on the point, it appears that the Second Circuit accepted the Commission's

sion v. *Securities and Exchange Commission*, 235 F. 2d 167, reversed on jurisdictional grounds, 353 U.S. 368, on the other hand, the Fifth Circuit—expressly eschewing legislative history (235 F. 2d at 172)—rejected the Commission's interpretation of that provision. Ruling that "substantial economies" are "important economies," the court stated (235 F. 2d at 173):

The question of their importance must, of course, be determined by the bearing they have on the ability of the two systems to continue in the serving of the two commodities in general demand without substantial change in policy, serving practically in the same way, making substantially the same gains, suffering substantially the same losses.

Like the decision below, the ruling in the *Louisiana* case plainly conflicts with the decisions of the District of Columbia Circuit and, in effect, is at variance with that of the Second Circuit. Indeed, although the court below cited the *Louisiana* case with apparent approval (App. A, *infra*, p. 14a), it is by no means clear that the test adopted below is the same as that propounded by the Fifth Circuit.

interpretation. The court stated (133 F. 2d at 152): "With the Commission's ruling that 'substantial economies' means important economies and not merely something more than nominal, we are in accord." In the decision there under review, the Commission, after quoting with approval the remarks of Senator Wheeler on the conference committee version of Section 11(b)(1)(A) (see n. 8, *supra*), stated, "These remarks reinforce the conclusion that Clause (A) was intended as a significant standard to be applied only when there was a strong reason for an exception to the general policy of permitting retention of only one integrated system." *North American Co.*, 11 S.E.C. 194, 209.

The need for this Court to resolve this conflict among the circuits as to the meaning of a key provision of an important regulatory statute is underscored by the fact that the decision below rejected an administrative construction of more than twenty years' standing. As we have noted, the Commission has consistently ruled that, under Section 11(b)(1)(A), a holding company may not retain an additional integrated utility system unless it can show that such system is incapable of independent economical operation (*supra*, p. 5). Under this test, more than \$2,000,000,000 in utility assets have heretofore been divested on orders of the Commission (see App. B, *infra*).

2. This Court previously granted certiorari on the issue involved here, among others, in the *Louisiana* case, *supra*, but, having disposed of that case on jurisdictional grounds, found it unnecessary to reach that issue. In our petition in the *Louisiana* case, we noted with some particularity the importance of this question with respect to the future administration of the Act. The issue remains at least as important today; indeed, the number of potential proceedings in which Section 11(b)(1)(A) might be involved has increased.

Our petition in the *Louisiana* case pointed to possible future Section 11(b)(1) proceedings with respect to Delaware Power and Light Company, a registered holding company owning and operating substantial gas properties in combination with its principal electric system; Utah Power and Light Company, a reg-

istered holding company controlling, in combination with what appears to be its principal electric system, what may well be an "additional" electric public-utility system; New Orleans Public Service Inc., a subsidiary of a registered holding company owning and operating gas and electric properties;¹⁰ and Columbia Gas System, Inc., a registered holding company which controls gas properties in seven States, some of which may not be retailable.¹¹ These situations still exist. The petition in the *Louisiana* case also referred to NEES, which is the subject of the present proceedings. The protracted NEES litigation has been the only major case under Section 11(b)(1)(A) which the Commission's limited staff has been able to conduct since the *Louisiana* decision.

In recent years there have been substantial changes and improvements in the state of the art respecting the operation of electric utilities,¹² and the holding

¹⁰ In *Middle South Utilities, Inc.*, 35 S.E.C. 1, 15, the Commission stated that, in view of the fact that the City of New Orleans had purchase-option rights which would have been lost by severance, it did not propose to take action with respect to the gas properties at that time. On March 8, 1962, however, New Orleans Public Service Inc. was informed that the Commission might reopen these proceedings. On March 26, 1962, a bill was introduced in Congress for the purpose of exempting the company from the requirements of Section 11(b)(1), and bills for that purpose have been introduced in every Congress since then. The Commission has deferred action on the matter.

¹¹ See *Columbia Gas & Electric Corp.*, 17 S.E.C. 494, where the Commission reserved jurisdiction, *inter alia*, as to the retainability of certain gas properties controlled by Columbia.

¹² See Federal Power Commission, *National Power Survey*. Vol. I, p. 1 (1964).

company device may be expected to be employed with greater frequency to realize economies of scale to reflect these changes and developments. For example, an application is now pending before the Commission with respect to one such proposed new holding company, Northeast Utilities.¹³ If the application is approved and the proposed transactions are consummated, Northeast Utilities will register and will have three large electric subsidiaries, two of which also own and operate substantial gas properties. Also, four public utility companies in the Northwest have jointly undertaken, through a company whose voting securities will be held by them in equal portions, to construct a hydroelectric project on the Snake River. Each of the ~~held by them in equal portions, to construct a hydroelectric project on the Snake River. Each of the~~ four sponsoring companies will become a public-utility holding company required to register unless an exemption can be obtained. Two of them, Montana Power Company and Washington Water Power Company, conduct substantial electric and gas utility operations.¹⁴ The construction of a large generating plant in New Mexico by four public-utility companies which are not now subject to the Act is also under discussion. If this should result in a plan providing for *pro rata* holding of the common stock of a new corporation by the sponsoring companies, each of them will become a

¹³ See Holding Company Act Release No. 15306 (Sept. 15, 1965).

¹⁴ See Holding Company Act Release No. 15026 (March 3, 1964).

holding company and, unless an exemption will be available, will be required to register. Two of the sponsoring companies, Arizona Public Service Company and Tucson Gas & Electric Company, operate gas utilities in combination with their extensive electric operations. Problems under Section 11(b)(1)(A) would have to be resolved with respect to each of the foregoing systems.

3. As we have shown, the decision below is in conflict with those of other circuits on an important issue of statutory interpretation. Furthermore, we believe, that decision is erroneous. In rejecting the relevant legislative history, on which the Commission and the District of Columbia Circuit had previously relied, the court below adopted a test which, we submit, seriously undermines the major aim of Section 11(b)(1)—limiting a holding company's "control over operating utility companies to one integrated public-utility system" (H. Rep. No. 1903, 74th Cong., 1st Sess. 70). Nor does its test—"a business judgment of what would be a significant loss"—comport with the purpose of clause (A) to provide "definite and concrete circumstances under which exception should be made to the form of one integrated system" (*ibid.*).¹⁵ Contrary to the accepted canons of construction, the court below apparently gave no weight whatsoever to the long-standing administrative construction of Section 11(b)(1)(A). Instead, it found questionable support in

¹⁵ The court's subjective test is also incompatible with the congressional aim of encouraging voluntary divestiture. See Section 11(e) of the Act, 15 U.S.C. 79(e); H. Rep. No. 1903, *supra*, at 70; S. Rep. No. 621, 74th Cong., 1st Sess. 13.

what it perceived to be the "symmetry" of the statute.¹⁶ But, as is often the case, the statute involved here is comprised of language drafted in the House, the Senate and in conference. There is no indication that "symmetry" is important or even relevant. Cf. *United States v. Mosley*, 238 U.S. 383.

4. Review of this issue is appropriate at this time and should not await the administrative proceedings on remand. If the Commission were there to determine that the gas properties are retainable under the First Circuit's test, there would be no possibility of the substantive issue being raised in this Court. On the other hand, should the Commission find the

¹⁶ As part of its "symmetry" analysis, the court noted that the term "substantial economies" appears in the definition of "integrated gas utility system" in Section 2(a) (29) (B), 15 U.S.C. 79b(a) (29) (B), and that the Commission accepted its staff's acquiescence in NEES's contention that its gas companies comprised such an integrated system (App. A, *infra*, p. 12a; See R. 23-24, 46-47, 49, 772, 1256). The court then stated that "the Commission could not, either in good conscience or in law, accept as a concession a matter so fundamental, not only to the present proceedings, but for the future, if it were contrary to the fact" (App. A, *infra*, p. 12a, n. 8). The court's suggestion that the Commission may be deemed to have adjudicated an issue which, because of the mutual agreement of the parties, was not put before it for decision is wholly unwarranted. Moreover, the court's statement is contrary to the salutary practice in administrative proceedings of encouraging the parties, so far as possible, to narrow the issues to be considered by the agency. See, e.g., Sections 5(a) and 7(b) (6) of the Administrative Procedure Act, 5 U.S.C. 1004(a), 1006(b) (6). If certiorari is granted, we intend to urge that this Court expressly disapprove any suggestion in the opinion below that agencies are not free to accept issue-narrowing concessions and stipulations.

gas properties non-retainable, even under the test set forth by the court below, it is not at all clear whether this Court would consider at that stage the question of the appropriate standard to be applied. Moreover, the administrative proceedings on remand would in no way clarify or sharpen the important statutory issue that this petition presents. In such circumstances this Court has indicated that it will review even an interlocutory decision which involves an issue "fundamental to the further conduct of the case." *United States v. General Motors Corp.* 323 U.S. 373, 377; *Land v. Dollar*, 330 U.S. 731, 734, n. 2.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted.

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Securities and Exchange Commission.

OCTOBER 1965.

APPENDIX A

United States Court of Appeals for the First Circuit

No. 6332

NEW ENGLAND ELECTRIC SYSTEM ET AL., PETITIONERS
v.

SECURITIES AND EXCHANGE COMMISSION, RESPONDENT

ON PETITION FOR REVIEW OF AN ORDER OF THE
SECURITIES AND EXCHANGE COMMISSION

Before ALDRICH, *Chief Judge*, SWEENEY, *Chief Judge*,
and WYZANSKI, *District Judge*.

John R. Quarles, with whom *Richard B. Dunn*,
Richard W. Southgate, *John J. Glessner, III*, and
Ropes & Gray were on brief, for petitioners.

David Ferber, Solicitor, with whom *Phillip A.*
Loomis, Jr., General Counsel, *Ellwood L. Englander*,
Assistant General Counsel, *Martin D. Newman*, At-
torney, and *Solomon Freedman*, Director, Division of
Corporate Regulation, Securities and Exchange Com-
mission, were on brief, for respondent.

OPINION OF THE COURT

June 4, 1965

ALDRICH, *Chief Judge*. This is a petition seeking to review and set aside a divestment order of the Securities and Exchange Commission pursuant to sec-

tion 11(b)(1) of the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79k(b)(1), requiring the petitioner, New England Electric System (NEES) to dispose of its gas utility properties by terminating its relationship with its eight subsidiary gas companies. The ultimate question in the case, which the Commission resolved against NEES, was whether divestiture would cause the loss of "substantial economies" within the meaning of the cited section.

Briefly, NEES is a registered holding company controlling, at the time of the hearing, fourteen electric utility subsidiaries and eight gas subsidiaries, with some 824,000 retail electric customers in the states of New Hampshire, Massachusetts, Rhode Island and Connecticut, and some 237,000 retail gas customers in Massachusetts. Seventy-eight percent of its gas customers are also served by the electric companies. Except for certain peaks and emergencies the gas distributed is natural gas supplied by pipe line companies from the southern United States. The gas companies have separate offices and management, but their top officers are responsible to the top officials of NEES. There was a lengthy hearing before an examiner at which NEES sought to show that the cost of divestment to the electric system would be \$804,000 annually, and to the gas system, if operated as a single unit after severance, \$1,098,000.¹ The Commission held *inter alia*, that the financial effect upon the electric system was not a relevant inquiry, but that if it was it was not significant. This we do not reach. It also held, which we do reach, that the claimed fi-

¹ NEES' actual figure was \$1,165,000, but the Commission reduced this by \$67,000 as a result of a "revised basis of payments" authorized by it. NEES does not presently dispute this adjustment, but points out that the reverse adjustment must be made to the estimated electric system losses.

nancial consequences to the gas system were not substantial as it construed the statute, but that if they were they had not been adequately proven.

Basic to its decision, as the Commission recognized at the outset of its opinion, is the meaning of the Act and the standards which it imposed. Briefly, section 11(b)(1) required divestiture unless NEES could satisfy the provisos or exceptions² contained in subparagraphs, or clauses, (A), (B) and (C). Clauses (B) and (C) were admittedly met. Clause (A) reads as follows:

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

Before considering whether the Commission's interpretation of this clause was correct we must determine what its interpretation was. At the beginning of its opinion the Commission stated that to prevent divestiture NEES must show,

that the additional systems were integrated in nature and "were so small that they were incapable of independent economic operation" and had a "real economic need" for management together with the principal system. Congress was aware that some loss of economies would usually result from the separation of jointly controlled utility systems, but considered that continued joint management should be permitted only where separation would entail a loss of economies which would be sub-

² The Commission uses the word "exceptions," and criticizes NEES' word "provisos." NEES' distinction, as we read it, was in response to a heavy burden of proof which the Commission sought to attach to exceptions. See fn. 4, *infra*.

stantial in the sense that they were important to the ability of the additional system to operate soundly. [Footnotes omitted.]

The Commission then quoted at length from a decision by the Court of Appeals for the District of Columbia,³ from which it drew the conclusion that clause (A) required a "showing by clear and convincing evidence" that such additional system cannot be operated under separate ownership without the loss of economies so important as to cause a serious impairment of that system." Lastly, at the end of its opinion, the Commission concluded that on the record it was unable "to find that the gas companies could not be soundly and economically operated independently of NEES, even assuming the validity of * * * [its] estimates."

Thus the statutory phrase, "cannot be operated as an independent system without loss of substantial economies," was said to mean, "incapable of independent economic operation;" "important to the ability * * * to operate soundly;" "so important as to cause a serious impairment of that system;" and "could not be soundly and economically operated."

³ *Engineers Public Service Co. v. S.E.C.*, 138 F. 2d 936, 944 (1943). This case is extensively relied on in the Commission's opinion without noting that certiorari was granted, 322 U.S. 723 (1944), and the decision subsequently vacated as moot. 332 U.S. 788 (1947). This omission was remedied in its brief. We do not know whether the view of the majority, or the dissent of Judge Soper which accords with ours, would have ultimately prevailed.

*The Commission has been criticized before for using this phrase, the court allowing it to pass, however, on the ground that it meant no more than the fair preponderance of the evidence, the ordinary burden of proof. *Philadelphia Co. v. S.E.C.*, D.C. Cir., 1949, 177 F. 2d 720, 725. We do not agree.

In *Middle South Utilities, Inc.*, 35 S.E.C. 1, 11 (1953), its most recent decision cited in its opinion for the support of its interpretation, the Commission ordered a divestment because it had not been shown that it would "cause the serious economic impairment of the system or that the gas properties could not operate effectively and efficiently under separate ownership." [Italic supplied.] Since presumably the Commission did not intend to voice simultaneously two different standards we read the word "or" as introducing an explanation or equivalency. Essentially this second *Middle South Utilities* phrase is the sole standard that the Commission adopts in its brief before us.

Also may be noted the Commission's statement, in refutation of one of NEES' contentions, that "other independent gas utility companies in the state * * * nevertheless have been able to conduct their operations and, apparently, earn a fair return without the alleged advantages of common control with electric utilities by a holding company."

Taking the record as a whole we find its brief accurate, and that the Commission's interpretation is

This phrase has a well recognized meaning, and is applied in special cases, such as fraud, *Lackawanna Pants Mfg. Co. v. Wiseman*, 6 Cir., 1943, 133 F. 2d 482, 486, or mistake, *Philippine Sugar Estates Devel. Co., Ltd., v. Philippine Islands*, 1918, 247 U.S. 385, 391, as applied in *Aetna Ins. Co. v. Paddock*, 5 Cir., 1962, 301 F. 2d 807, 811. The Commission is to be criticized for continuing to use this language, which by its tone suggests to laymen, as well as to lawyers, a heavy burden. We suspect, from other statements in its opinion, that it accurately revealed the Commission's approach. If so, in any future proceedings the Commission should readjust its receptivity as well as its phraseology.

that a loss is not "substantial" unless it would render impossible "economical or efficient operation."⁵

As to the correctness of this interpretation we have not considered before the meaning of clause (A), and there is no uniformity of judicial view elsewhere. It is true that in *North American Co. v. S.E.C.*, 1946, 327 U.S. 686, 696-7, the court referred to section 11(b)(1) as permitting retention only of "relatively small [companies] * * * unable to operate economically under separate management without the loss of substantial economies * * *." This was a passing summary, and did not purport to be an exact characterization. The precise meaning was not relevant to the constitutional questions then under consideration, and even if the court's language is not considered ambiguous we do not take it as an attempt to resolve possibly intricate questions of construction. We turn, therefore, to other considerations.

Although we do not regard the legislative history as determinative, we begin there as the Commission makes much of it. Its principal reliance is upon the concluding remarks of Senator Wheeler on the floor after the bill had finally passed both branches. Senator Wheeler stated, *inter alia*, that the act permitted a holding company to retain more than one integrated system only when the additional systems "* * *" were so small that they were incapable of independent

⁵ NEES suggests there is no practical difference between preventing economical operation and bankruptcy. The Commission does not address itself to this question. We assume it believes there to be a difference, but except to the extent suggested in fn. 7, *infra*, we cannot find from its opinion what the difference is, or, more important, what is the standard by which uneconomical operation is determined. The very serious problem which this would present we do not reach because we disagree with the Commission's basic interpretation.

economical operation." 79th Cong. Rec. 14479 (Aug. 24, 1935). We may note, at the outset, that only by a most generous interpretation is this statement part of the legislative history. Having come afterwards, it could not have affected the voting. The best reason for considering it as evidence of Congressional intent, see *United States v. United Mine Workers*, 1947, 330 U.S. 258, 279-80; *Duplex Printing Press Co. v. Deering*, 1921, 254 U.S. 433, 477; cf. *State Wholesale Grocers v. Great Atlantic & Pacific Tea Co.*, D.C.N.D. Ill., 1957, 154 F. Supp. 471, 485, *rev'd on other grounds*, 258 F. 2d 831, *cert. den.* 358 U.S. 947, is accordingly absent.⁶ Furthermore, coming from the leading Congressional advocate of strict separation, see e.g., 79 Cong. Rec. 1525, Feb. 6, 1935; *id.*, 4903 (radio address of April 2, 1935); *id.*, 14470, Aug. 24, 1935 (remarks of Senator Norris), it would seem natural to regard it, at that stage of the proceedings, as a self-serving declaration. To the cynically minded it would seem to have been merely a post-contest attempt to raise the score, recapture what had been lost in the compromise with the House discussed *infra*, and to serve, just as is now being sought, to influence subsequent history. The best that should be said for

⁶ See Hart and Sacks, *The Legal Process: Basic Problems in the Making and Application of Law* (tent. ed. 1958) 1285:

"The views of individual members of the legislature as to the meaning of a statute which were not officially communicated to the legislature prior to its enactment are not competent to be considered in determining the meaning which ought to be attributed to the statute."

Nor could it have invited a presidential veto, since the President was a known advocate of a strong bill. See 79 Cong. Rec. 3425-26, 3469-70, March 12, 1935 (Message to Congress); *id.* at 9042, June 11, 1935 (letter to Senator Barkley and Senator Wheeler); *id.* at 14164, Aug. 22, 1935 (letter to Representative Rayburn).

Senator Wheeler's statement under these circumstances is that it is not to be given the weight to which it might have been entitled if made at another time.

The other pieces of legislative history related in the Commission's brief are a quotation from remarks by Representative O'Connor speaking "of 'a little power plant in Florida' or 'a little plant in Oklahoma' (79 Cong. Rec. 14168, Aug. 22, 1935)" and one from Representative Cooper, "who had opposed the motion, [and] had referred to systems retainable under Clause (A) as 'unprofitable companies * * * too weak to stand alone' (*id.* at 14165-14166)." Examination of Representative O'Connor's full statement rebuts the economic implication the Commission wishes us to attach to the word "little." It is evident that the remarks were addressed to geographical aspects, the absentee landlordism condemned in clause (B). It is true that Representative Cooper was speaking of clause (A). But it seems apparent that as an opponent of the bill he was strategically engaged in blackening it. According to him the compromise was no compromise whatever, a position demonstrably unsound. His interpretation of particular clauses must be read in that light. *Labor Board v. Fruit & Vegetable Packers & Warehousemen, Local No. 760*, 1964, 377 U.S. 58, 66.

A much more pertinent characterization of the phrase "substantial economies" is found in the statement of the House Managers attached to the conference report recommending passage of the compromise draft, that the retention of additional systems was to be permitted where there was a "real economic need." H.R. Rep. No. 1903, 74th Cong., 1st Sess., 71. This language, however, is itself ambiguous. Obviously there would be a real economic need to prevent

a loss that would preclude efficient or effective operation. But there could also be said to be a real economic need to avoid any truly sizable financial loss notwithstanding the utility's ability to absorb it and remain efficient in some absolute sense.⁷ For reasons we now come to we believe the statute is to be given this more general meaning.

The declaration of legislative objectives is found in section 1(b). Subsection (1) thereof concerns improper accounting practices, capitalization, etc., that may injure investors. Subsection (2) refers to excessive charges and other effects of transactions among companies within a holding company system. It also, together with subsection (3), refers to impediments occasioned by the holding company device to state regulation. We quote in full the remaining subsections, which declare the public interest to be adversely affected,

(4) when the growth and extension of holding companies bears no relation to *economy of management and operation* or the integration

⁷ We have already commented upon the Commission's failure to enunciate any standard beyond this broad generalization of economy or efficiency. See fn. 5, *supra*. Possibly its views are partly implied by the points made in its opinion when assuming that an annual loss of \$1,098,000 had been adequately established. The first was that while this amount is larger, absolutely, than losses required to be accepted in any previous case, it is not larger relatively. Secondly, that the loss would be only 23.28% of gross income, and 29.94% of net income before federal income taxes. (The word "only" is ours.) Third, that there are "other independent gas utility companies in the state which nevertheless have been able to conduct their operations and, apparently, earn a fair return * * * and * * * compete effectively. * * *" Finally, that it "would be entering the realm of speculation at this time to assume that rate increases would ensue from severance."

and coordination of related operating properties; or

(5) when in any other respect there is *lack of economy of management and operation of public-utility companies or lack of efficiency and adequacy of service* rendered by such companies, or lack of effective public regulation, or lack of economies in the raising of capital. [Italic supplied.]

Pausing here we note in the italicized phrases two concepts, economy of management and operation, and efficiency (and adequacy) of service. The word "or" in clause (5) is clearly used in the disjunctive. This separate meaning is emphasized when we come to section 11(b)(1) clauses (A) and (C), *infra*. It will be sufficient to note here, for both present and future purposes, that the Commission has taken the word "efficient" from this use in connection with service and joined it with the phrase "economy of management and operation," and has then built out of the combination the concept that until a loss of economy and efficiency is shown to be total there has been no loss of substantial economies under clause (A) within Congressional concern. We may note, also, an omission which we take seriously, that on the sole occasion that the Commission quoted clause (4) it substituted asterisks for the phrase we have italicized, and, although the legislative meaning of economies is the specific matter under consideration, has never referred to it. Clause (5), likewise, is never mentioned.

The definitions of "integrated public-utility systems" are found in section 2(a)(29). Subsection (A) defines an integrated electric system as one which, *inter alia*, "may be economically operated as a single interconnected and coordinated system." Subsection (B) defines a gas system as where, *inter alia*, "substantial

economies may be effectuated by being operated as a single coordinated system." During argument we inquired the reason for this difference. No suggestion was forthcoming. The only reason apparent to us is that in order for electric companies to constitute an integrated public utility system they must meet a technical requirement not applicable to gas companies seeking to qualify as an integrated system. Unlike gas companies, *General Pub. Util. Corp.*, 1951, 32 S.E.C. 807, 834-35, electric companies must be "physically interconnected or capable of physical interconnection." Where this requirement is met, so that actual interchanges of power could be made to meet power requirements at different points in the system, it was enough for Congress that the system as a whole "may be economically operated as a single interconnected and coordinated system." Assuming the other qualifications were met electric companies would not have to prove that system ownership would be cheaper than independent ownership, probably because this could safely be assumed where there would be a sharing of power.

Coming to section 11(b), the primary provision, subsection (1) requires that holding companies be restricted to a single integrated public utility system except when subclauses (A), (B) and (C) are satisfied. For clarity we quote in full.

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation.

These exceptions to section 11(b)(1) were added as a result of a compromise with the House. The original Senate bill had flatly restricted holding companies to a single integrated system. S. 2796, 74th Cong., 1st Sess. (1935). The House sought to permit as many systems as were consistent with the public interest. See H.R. Rep. No. 1318, 74th Cong., 1st Sess. 17 (1935). The Commission's then chairman objected that this would be intolerably indefinite. 79 Cong. Rec. 10838 (July 9, 1935); see also H.R. Rep. No. 1318, *supra*, at 45. Clauses (A), (B) and (C) were proposed as a compromise to establish "definite and concrete circumstances" where retention of more than one system would be allowed. Statement of House Managers, *supra*, at 70.

It is basic to the Commission's position that the phrase "substantial economies which can be secured by the retention of control" in clause (A) is fundamentally different from "substantial economies [that] may be effectuated by being operated as a single co-ordinated system" in section (29)(B).^{*} Such a con-

^{*}The Commission is committed to this, and expressly so recognizes in its brief, because it rejected certain important evidence offered by NEES solely on the ground that the eight gas companies were conceded to be "a single integrated system." Since the Commission could not, either in good conscience or in law, accept as a concession a matter so fundamental, not only to the present proceedings, but for the future, if it were contrary to the fact, it stands that the Commission feels that saving \$329,400 annually by integrating the eight gas companies

tention, of course, is opposed to the common principle that the same words in different portions of an act are presumed to have the same meaning. In this case they are exactly the same.⁹ To overcome the presumption calls for an affirmative showing.¹⁰

Furthermore, we find the Commission's interpretation of clause (A) opposed to the initial statement of the purposes of the Act, *supra*, the tenor of which was that holding companies had been found uneconomical to investors and to the public. It is not inconsistent with this to say that systems which do not offend in this respect, or in the other respects defined in clauses (B) and (C), should be continued instead of broken up, and that occasioning a loss of impressive proven economies was not the Congressional purpose. This was a business reorganization act designed to produce a healthier economic structure in a vital industry. It established what, in the opinion of Congress, accomplished the best overall conditions. At the same time, Congress remained receptive to what, in a particular

is effectuating substantial economies under section (29)(B), but that \$1,098,600 annually is not substantial economies under clause (A).

⁹ The Commission's brief goes to some length in emphasizing the word "loss" in section 11(b)(1)(A). Sections 2(a)(29)(B) and 11(b)(1)(A) are not incomparable because the former speaks in terms of effectuating and the latter in terms of losing. The important comparison is the word "effectuated" in the one section and "secured" in the other. Both relate directly to "substantial economies."

¹⁰ In a special effort to make this showing counsel argues that there is a policy in the Act against an electric utility system being combined with a gas system. The short answer to this is that neither the Act, nor the Commission itself, says so. Since, however, counsel's argument is extensive we will reply in kind, but in order not to prolong this footnote we will do so in an appendix, *infra*.

instance and within the limits established by clauses (B) and (C), might be affirmatively shown to be a more economical arrangement. We hold that clause (A) called for a business judgment of what would be a significant loss, not for a finding of total loss of economy or efficiency. *Louisiana Pub. Serv. Comm'n v. S.E.C.*, 5 Cir., 1956, 235 F. 2d 167, *rev'd on jurisdictional grounds*, 353 U.S. 368.

We are confirmed in this view by the fact that not only do clauses (B) and (C) contain additional conditions of retention, so that clause (A) need not be interpreted so as to cover the entire Congressional intent, but that these other clauses relate back fully to counterparts of the declarations of purpose made in section 1(b), and the attempts to effectuate those purposes through the definitions made in section 2(a)(29), *supra*. Clause (A) would do the same were it not for the special restricted meaning that the Commission seeks to give it. The Commission, in other words, has attached to "substantial economies" in this one particular place a special meaning that nothing in the Act points to, and which, in fact, destroys its symmetry.¹¹

It might not be inappropriate to conclude with the quotation with which the Commission began a section of its brief. "As was stated [the brief says] in the

¹¹ Drawing an equivalence between the proviso contained in clause (A) to section 11 and the corresponding requirements for an integrated gas system under section 2(a)(29)(B) nullifies no technical requirements in the definition of an integrated gas system because there are none. The definition of an integrated electric system under section 2(a)(29)(A) does contain some technical requirements, as has been pointed out, but these, also are not nullified by our interpretation of clause (A) since it remains stricter than section 2(a)(29)(A)'s requirement that the electric system "may be economically operated."

report of the National Power Policy Committee: "[I]ntensification of economic power beyond the point of proved economies not only is susceptible of grave abuse but is a form of private socialism inimical to the functioning of democratic institutions and the welfare of a free people.' * * * H. Doc. No. 137, 74th Cong., 1st Sess. 4 (1935), appended to S. Rep. No. 621, 74th Cong. 1st Sess." We cannot think that "proved economies," any more than "substantial economies," mean anything other than economies which in ordinary business parlance and by ordinary business standards are of a substantial nature, considering, of course, the size of the companies to which the economies relate.¹² Clearly that was what was meant elsewhere in the Act. If in clause (A) Congress meant, instead, "cannot be operated efficiently as an independent system" it could readily have done so not only more clearly, but in fewer words.

The Commission's only answer is "the policy of the Act." We think the policy of the Act is to be found in the whole Act, not in one part. NEES has the burden of proving that it falls within an exception. This is enough, without a forced reading into that exception of some special meaning.

We regret the length of this discussion. Since, however, we find the Act not only consistent, but entirely responsive to analysis, we feel such analysis called for in fairness to those persons, whether investors or consumers,¹³ who must absorb perhaps a

¹² In this case the claimed losses are over 23% of gross income. See fn. 7, *supra*.

¹³ The Commission's finding it significant that it was insufficiently shown that this loss would require an increase in rates "at this time," fn. 7, *supra*, not only disregards the fact that the cost of doing a utility business normally is passed on to consumers eventually, but the fact that one of the purposes of the Act was to benefit legitimate investors.

million dollars a year (quite apart from over \$800,000 allegedly lost to the electric system) which the Commission feels insubstantial.

* The Commission having applied the wrong standard, its decision must be reversed unless on the record there could have been no finding in NEES' favor on the appropriate standard. We think clearly there could have been. NEES' case was based essentially upon a study made for it by Ebasco Services, Inc., (Ebasco), a management consultant which the Commission found possessed extensive experience in the utilities field. No rebuttal evidence, other than some exhibits, was offered on behalf of the Commission, which grounded its rejection of the report, to the extent that it did reject it, solely on criticism of the report's conclusions in the light of NEES' evidence or its own expertise. Its specific criticisms related to that portion of the report which dealt with certain costs totalling \$472,100 or, more specifically, for the most part, customer and accounting costs included therein, for which the Ebasco estimate was \$415,600. The first criticism concerned billing. The circumstances were these. Ebasco's original study was made on the assumption that the gas companies would be individually managed. On this hypothesis it naturally assumed that each company would conduct separate customer billing. When the Commission took the position that the gas companies constituted a single integrated system and should be sold as such, Ebasco was required to reduce its estimate by the amount attributable to operating the gas companies individually rather than as a unit. It made no reduction with respect to customer billing.

On this subject NEES called three witnesses. One Quig, a representative of Ebasco with ample qualifications, testified to certain accounting savings that could

be effected if the gas companies were operated collectively rather than individually. He stated, however, that Ebasco would not recommend, at least at the outset, centralization of certain matters, including billing; that a continuing study might show that further centralization would prove useful, but that it was by no means clear that economy lay in that direction, and that it would depend on such factors as business growth, new developments in mechanization, etc. Subsequently one Dalbeck, the principal officer of NEES' gas division, testified that it was conceivable that centralized billing might be effected to some degree, but that in his opinion it was not really important cost-wise; that he had made many studies of customer accounting procedures and had never found any real economies in centralization of billing. Thereafter one Johnson, an Ebasco representative with particular experience in customer accounting, testified that a detailed study would have to be made, which Ebasco had not done; that based upon his experience he had considered centralized billing for the combined operation and had made the judgment that there would be no economy, or at least "any substantial savings." The witness was cross-examined at length and showed a wide knowledge not only of specialized mechanical equipment in this area and the problems involved, but also of the particular practices of a large number of named utilities in various parts of the country. He recognized that in many instances centralized billing prevailed, but continued to express doubts as to how much was saved thereby.

The Commission's response to this was to point out that some of the NEES gas companies presently combined their billing with the electric companies in their areas. This matter had been explained by NEES' witnesses, who pointed out, *inter alia*, the duplication

of customers, which would not exist in the case of gas companies operating alone. The Commission concluded, however, that NEES had not "given any satisfactory reason why at least some form or forms of combined billing procedure could not be employed advantageously by the gas companies, in light of the fact that their aggregate of 237,000 customers is located in a relatively compact area."

We have serious doubts as to the extent that the Commission is entitled to disregard an opinion on a matter obviously requiring expert, specialized knowledge with no further evidence before it than what had been considered by the accepted expert. *Cf. United Shoe Mach. Corp. v. Industrial Shoe Mach. Corp.*, 1 Cir., 1964, 335 F. 2d 577, 579, *cert. den.* 379 U.S. 990; *Security-First National Bank v. Lutz*, 9 Cir., 1963, 322 F. 2d 348, 355; *Alvary v. United States*, 2 Cir., 1962, 302 F. 2d 790, 794; *Cullers v. Commissioner*, 8 Cir., 1956, 237 F. 2d 611, 616. This is not a matter on which a body having such broad jurisdiction as the Commission can have detailed expertise upon which to base affirmative findings. Compare *Market St. Ry. v. Railroad Commission*, 1945, 324 U.S. 548, 560. Without finally passing upon this point, since the case must go back in any event, we suggest that on this record the maximum the Commission was warranted in inferring was that the difference in costs between separate and combined billing would not, if significant at all, constitute a sizable portion of the total added billing expense.

This brings us to what was the added billing expense, and hence the amount of error attributed to the Ebasco report because of its failure to assert the saving which, in the Commission's opinion, could be effected by having centralized billing. The Commis-

sion concluded merely that Ebasco's failure caused the estimate to be "overstated." It did not concern itself with discovering even what were the total increased billing costs, let alone the portion (obviously not the whole) which might be saved if centralized billing were adopted. It did find that the increased billing costs estimated for two of the eight gas companies, billing singly after divestiture, was \$34,700 for the two. These companies covered more than half of NEES' gas customers. On a pro rata basis this would make the total billing increase for all companies \$60,000. While doubtless such a projection is not precise, it seems significant that the Commission was not sufficiently interested to make any at all. Under the circumstances we do not think it unreasonable for us to point out that while the Commission was purportedly criticizing a cost estimate of over \$400,000, strictly it was speaking of perhaps \$60,000, only a portion of which could have been overstated.

We might have more sympathy with some, but not all, of the Commission's criticism of certain other alleged accounting disparities. Frankly, we are not sufficiently versed, nor do we find the record sufficiently helpful, to permit our analyzing them in every detail. However, it has not been contended that, even cumulatively, they remove from the Ebasco \$472,000 cost estimate many sizable items.

After discussing the above matters the Commission said,

In view of respondent's burden of proof and the absence of a persuasive explanation on the record, Ebasco's failure to consider employment of combined billing procedures and its inadequately explained disparate treatment of certain effects of severance on the gas and electric companies, respective, substantially impair the

credibility and preclude the acceptance of its estimate of \$472,100 increase in treasury and accounting costs and, in turn, of its over-all estimate of increased costs (of which that figure is a material part) in the determination of whether severance would result in a substantial loss of economies.

If this constitutes a finding that the deficiencies which the Commission believes it has found are so serious that the Commission was entitled to reject the balance of the report from that very fact, we cannot agree. The doctrine of "*falsus in uno, falsus in omnibus*," so far as it has any value, ordinarily applies to cases of deliberate falsehood. See 3 Wigmore, Evidence § 1013 (3d ed. 1940). The Commission has not suggested, and we see no possible basis for suggesting, that the discrepancies it complains of indicate bias or dishonesty. Absent a finding that the errors found are related to, or infect, other matters not directly discredited, if the "*falsus in uno*" doctrine, or a corollary, is to be used on any further basis to impeach an expert's report, it must be shown that the errors are so serious that they indicate substantial carelessness, or otherwise impugn the expert's qualifications. See *e.g.*, *Hoag v. Wright*, 1903, 174 N.Y. 36, 43; 66 N.E. 579, 581. Again, the Commission made no such findings. If there was a ground for them it has not been suggested. Indeed, the Commission demonstrated its confidence in Ebasco elsewhere by accepting its cost estimates as the basis for concluding that the gas companies constitute an integrated system.

On the record there is a large, residual showing in the Ebasco report. Even at minimum it is \$1,098,000 minus some fraction of \$472,000. However, we do not think it presently appropriate for us to consider whether such minimum showing meets our interpreta-

tion of "substantial economies." We do state, however, that on remand the Commission must address itself to this problem by making specific findings, and not content itself with general conclusions. One illustration of this will suffice. The Commission states in its brief that it "had the right to consider competitive advantages of separation in offsetting alleged losses of economies." We do not question this. What we do question is the Commission's failure to find or articulate any specific or approximate financial benefit that such a change would occasion. Free competition, as the Act recognizes is normally beneficial. It is not necessarily so, nor in any assumed amount. The various automotive divisions of General Motors seem to do very well. More close to home, the Massachusetts Department of Public Utilities, which voices no apparent criticism of a number of combined local gas and electric companies within the Commonwealth, affirmatively appeared in opposition to the Commission's proceeding in the present case. The Commission states that the Department's views have been "carefully considered," but it goes no further. If the Commission is of opinion that substantial gains will accrue to the gas system by placing it in competition with the electric companies rather than, in part, under the same roof, specific findings should be made, and not just a general reference to the advantages of competition. This is particularly called for where the evidence shows that NEES has made a special effort to obtain for its gas system many of the benefits of independence.

Decree will be entered vacating the order of the Commission and remanding for further action not inconsistent herewith.

APPENDIX

In the Commission's brief counsel argues that section 11(b) embodies a federal concern with use of the holding company form to combine a gas system with an electric system. There are several answers to this. In the first place, it is too specialized an approach. The meaning of this section and of sub-clauses (A), (B) and (C) must be the same whether the principal system and the additional systems are of like nature or are different. "Substantial economies," in other words, should have the same connotation in the one case as in the other.

Secondly, nowhere in the Act is there a condemnation of the retention of gas and electric systems, provided the tests contained in clauses (A), (B) and (C) are met. To the contrary, section 8 prohibits a holding company's acquisition of gas and electric utilities serving the same territory, where state law prohibits combined gas and electric operations, without express approval of the state commission. If anything, this is a negative pregnant, as the Commission has recognized and the legislative history makes clear. See *Northern States Power Co.*, 1954, 36 S.E.C. 1, 8; S. Rep. No. 621, 74th Cong., 1st Sess., 29-30; H.R. Rep. No. 1318, *supra*, at 14-15; Report of National Power Policy Committee, H.R. Doc. No. 137, 74th Cong., 1st Sess. 10 (1935), appended to S. Rep. No. 621, *supra*, at 59; Hearings Before House Committee on Interstate and Foreign Commerce on H.R. 5423. 74th Cong., 1st Sess. 330 (1935) (statement of Rep. Ray-

burn). How far such an inference may be carried in the light of the fact that section 10(c), which prescribes the standards for acquisitions, expressly incorporates the retention standards, and requires further that an acquisition tend toward the development of an integrated system, may be questioned. Cf. *American Water Works & Elec. Co.*, 1937, 2 S.E.C. 972, 983 & n. 3; *Columbia Gas & Elec. Corp.*, 1941, 8 S.E.C. 443, 462-63; *American Gas & Elec. Co.*, 1946, 22 S.E.C. 808, 815. But at the least we find neither there nor elsewhere in the Act a general policy of opposition to gas and electric company joinder.

Nor, if the matter could be thought to be illuminated by administrative practice, has the Commission previously made such an interpretation, nor does it now. In its opinion the Commission stated, "We do not take the view that the Act expresses a federal policy against combined gas and electric operations as such." Counsel's attempt to explain this away by saying the Commission's phrase "as such" meant simply that the Commission was disclaiming interest when the interstate holding company form was not employed, attributes to the Commission the banality that it was not claiming jurisdiction in those cases where obviously it does not have it. We believe the Commission was saying something more than this, and that counsel, in the brief is merely seeking some new ground to support the Commission's result.

DECREE

June 4, 1965

This cause came on to be heard upon petition to review and set aside an order of the Securities and Exchange Commission, and was argued by counsel.

Upon consideration whereof, It is now here ordered, adjudged and decreed as follows: The order of the Commission is vacated, and the case is remanded for further action not inconsistent with the opinion filed today.

By the Court:

(S) ROGER A. STINCHFIELD,
Clerk.

Approved,

(S) ALDRICH, *Ch. J.*

APPENDIX B

On the following pages is a table of cases in which the Commission directed registered holding companies to divest themselves of securities or properties upon the specific finding that they constituted systems which were not retainable under Section 11(b)(1)(A) of the Act. In certain of these cases, the Commission also found that the electric or gas companies (or properties) involved were not retainable under other standards of Section 11(b)(1) as well. The chart does not include dispositions of securities or properties by registered holding companies that occurred in probable anticipation that the Commission would find that they could not meet the retention standards of Clause (A).

Top holding company	Citations	Majority interests divested ¹	
		Number of companies	Aggregate assets
The North American Co., et al.....	11 S.E.C. 194 (1942)	6	\$554,473,008
	18 S.E.C. 611 (1945)	1	13,129,400
Engineers Public Service Co., et al.....	12 S.E.C. 41 (1942)	1	19,019,927
Cities Service Power & Light Co.....	14 S.E.C. 28 (1943)	13	59,995,535
Middle West Corp., et al.....	15 S.E.C. 309 (1944)	4	97,751,921
Cities Service Co., et al.....	15 S.E.C. 962 (1944)	13	More than 148,258,253
Peoples Light and Power Co., et al.....	20 S.E.C. 357 (1945)		
American Gas and Electric Co., et al.....	21 S.E.C. 575 (1945)	3	97,684,103
Commonwealth & Southern Corp., (Del.), et al.....	26 S.E.C. 464 (1947)	6	722,259,916
Pennsylvania Gas & Electric Corp., et al....	28 S.E.C. 553 (1948)	2	2,093,558
Philadelphia Co., et al.....	28 S.E.C. 35 (1948)	3	113,605,913
Eastern Utilities Associates, et al.....	31 S.E.C. 329 (1950)	1	13,234,309
	40 S.E.C. 162 (1960)		
	H.C.A.R. 15020 (1964)		
General Public Utilities Corp.....	32 S.E.C. 807 (1951)		
Middle South Utilities, Inc., et al.....	35 S.E.C. 1 (1953)	1	19,061,622
	40 S.E.C. 193 (1960)		
Totals.....		54	1,859,567,460

¹ In more than three-quarters of these instances, the holding company owned at least 90 percent of the outstanding voting securities of the divested subsidiary, and in only one instance did holding company ownership amount to less than 65 percent of such securities.

² These are cases in which the divestment of specific physical properties, as distinguished from utility companies, was ordered. In some instances, after divestiture was ordered, the properties

Physical properties divested ²		Minority interests divested ²	
Number of seller companies	Properties divested	Number of companies	Investments divested
		2	\$104,685,086
1	4,551,309		
1	Not available		
1	182,000		
		1	255,951
1	13,757,386		
4	18,400,605	3	104,940,637

were transferred by the owner company to a newly organized subsidiary, whose stock was subsequently disposed of.

² These figures represent the consideration received by the holding companies upon disposition of their minority interests.



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JOHN F. DAVIS, CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1965

No. 636

SECURITIES AND EXCHANGE COMMISSION,
Petitioner,

v.

NEW ENGLAND ELECTRIC SYSTEM ET AL.,
Respondents.

ON A PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

BRIEF FOR RESPONDENTS IN OPPOSITION

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Boston, Massachusetts

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JOHN J. GLESSNER, III

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Of Counsel



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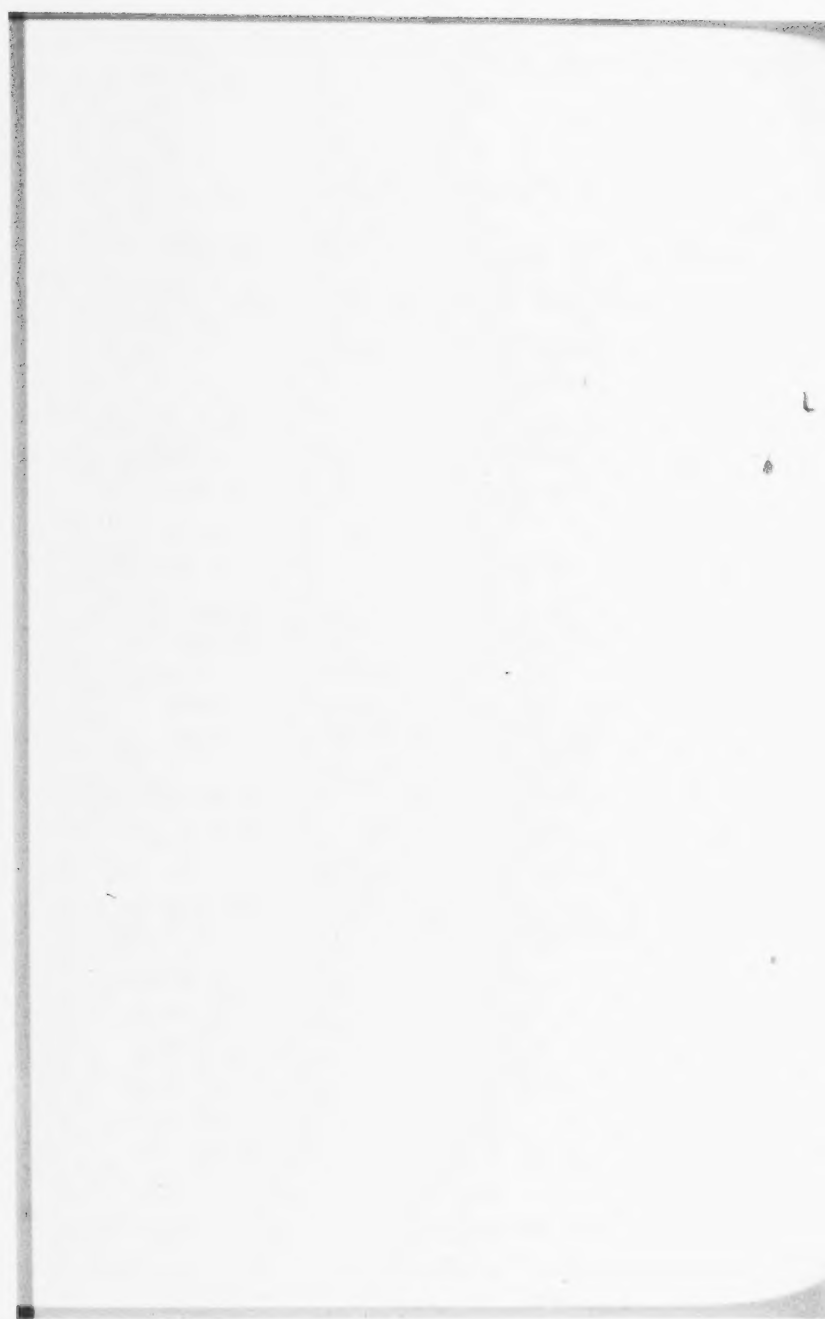
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<i>Pacific Northwest Power Co.</i> , SEC Holding Co. Act Release No. 15026 (March 3, 1964)	12

*See Appendix A to this Brief.



IN THE
Supreme Court of the United States

OCTOBER TERM, 1965

No. 636

SECURITIES AND EXCHANGE COMMISSION,
Petitioner,

v.

NEW ENGLAND ELECTRIC SYSTEM ET AL.,
Respondents.

ON A PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

BRIEF FOR RESPONDENTS IN OPPOSITION¹

QUESTION PRESENTED FOR REVIEW

The Respondents are dissatisfied with the Petition's statement of the question presented. It seems to imply (i) that the interpretation in this case by the Securities and Exchange Commission of the phrase "substantial economies" is one of long standing and (ii) that the Commission's use of that interpretation has been so extensive and consistent as to entitle it to special consideration by the courts, neither of which is true. The Respondents say that the question presented for review is:

Do the common words "substantial economies" as used in Clause (A) of Section 11(b)(1) of the Public Utility Holding Company Act of 1935 have their normal meaning, that is, economies which in ordinary business judg-

¹ The time for filing this Brief was extended by the Clerk from November 1 through December 1, 1965.

ment would be regarded as important or significant considering the business to which they relate, the meaning which the Commission, in this case, tacitly assumed for them in connection with Section 2(a)(29) (B) of the Act; or for the purposes of Clause (A) alone are the words to be so construed that economies, however important, are not to be deemed substantial unless their loss would render the additional system incapable of sound and economical operation, a meaning which cannot be found in the words themselves and is not suggested by anything else in the Act?

STATUTE INVOLVED

The Petition's statement of the statute involved (Pet. 2) omits significant sections which were cited and considered by the court below and, to a more limited extent, by the Commission. The following sections of the Holding Company Act are relevant and are set forth in Appendix A to this Brief: Sections 1(b)(4)-(5) and (c), the applicable statement of purposes and policy of the Act; Sections 2(a)(29)(A) and (B), the applicable definitions of an "integrated public-utility system"; and Section 11(b)(1) (A)-(C), the statement of the circumstances and conditions under which additional systems may be retained.

STATEMENT OF THE CASE

The Respondents are dissatisfied with the Petition's "Statement" (Pet. 3) in the following particulars:

1. The description of the lower court's holding and reasoning (Pet. 6) is incomplete and inaccurate. The holding on the question here presented was not based on the narrow grounds stated in the Petition, but rather on a painstaking and detailed analysis of the statute with due consideration of its purpose, its legislative history, its structure and wording, the consideration given it by other courts and by the Commission, and all other relevant factors. Respondents respectfully refer the Court to the

opinion itself (Pet. App. A, particularly pp. 3a-15a and 22a-23a).

2. The account of the proceedings below is seriously inaccurate and misleading in saying that "all parties agreed to consider [the gas companies] as an 'integrated gas utility system'" (Pet. 4), thus implying that findings and a conclusion on this issue and a statement of the reasons for the determination, as required by the Administrative Procedure Act,² were unnecessary. The Petition's inaccurate account of the proceedings below, and the Commission's attempt to dispose of this issue by "conceding" it (R. 1256) instead of dealing with it in the normal way, are of particular significance as they obscure critical inconsistencies in the Commission's procedures and holdings in this case.

Whether or not the gas companies constitute a single integrated system was one of the principal issues in the case and was recognized as such at the hearing. It was specified in the Order of Notice in the same terms as the corresponding issue relating to the electric properties (R. 20; also see R. 39-41). Extensive evidence relating to it was introduced. Months after completion of Respondents' affirmative case, the Commission's staff for the first time disclosed its intention at an appropriate time to urge the Commission (R. 772), and in its brief after the hearings were concluded it did urge the Commission, to make the determination. At no time did either the staff or the Respondents even suggest disposing of the issue otherwise than through appropriate findings by the Commission in the regular way.

²"All decisions (including initial, recommended, or tentative decisions) shall become part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) the appropriate rule, order, sanction, relief, or denial thereof." Section 8(b). 60 Stat. 242 (1946), 5 U.S.C. § 1007(b) (1964).

With respect to the issue of integration of the electric properties (on which the staff, following hearings, did not oppose Respondents' position), the Commission issued its comprehensive Findings and Opinion and Order (R. 27). With respect to the same issue relating to the gas companies, in striking contrast, the Commission issued no findings or opinion but stated that the issue was conceded (R. 1256).

As pointed out in the opinion below, the Commission, in "conceding" this issue, must necessarily have considered economies of \$329,400 annually to be "substantial economies" under Section 2(a)(29)(B) of the Act (Pet. 12a n. 8). In ordering divestment the Commission affirmatively found economies of \$1,098,600 annually not to be "substantial economies" under Section 11(b)(1)(A). Had the Commission made the necessary findings on the issue under Section 2(a)(29)(B), it would have had to face this fatal inconsistency.

3. The statements that in the instant case the Commission applied the same interpretation of "loss of substantial economies" that it had applied in every other divestiture case under Section 11(b)(1) (Pet. 5), and that under this test over \$2,000,000,000 of utility assets have been divested (Pet. 12) are clearly erroneous. The cases in question are listed in Appendix B to the Petition. A careful analysis of them (see pp. 5-7 below and Appendix B to this Brief) discloses that only three of the thirteen cases cited, involving less than 7½% of the total assets divested, even purported to apply the interpretation presented here, and in not one of them does it appear that the interpretation was determinative of the issue. It also appears that the vast majority of the total assets divested were properties which, unlike those in the instant case, were geographically separated from the principal systems involved, and had to be divested under the standards of Clause (B) or (C) of Section 11(b)(1), irrespective of their status under Clause (A).

4. The Petition contains no reference to the fact that the Department of Public Utilities of Massachusetts, the state in which all the Respondent gas companies are located, intervened as a party in the proceedings before the Commission and strongly opposed divestment of the gas companies. The Department's Chairman testified at length to the effect that divestment would not be in the public interest or achieve any benefits, but would result in the impairment of service and the loss of substantial economies, which loss would fall ultimately on consumers. (R. 41-42, 582, 588-94).

ARGUMENT

The Petition suggests that the decision below is erroneous and states three reasons for review: (i) the importance of reinstating the Commission's alleged long-standing interpretation of Clause (A) (Pet. 2, 5, 12); (ii) an alleged direct conflict between the decision below and two District of Columbia decisions (also, apparently, that it is "inconsistent with" a Second Circuit case and, possibly, "at variance with" a Fifth Circuit case) (Pet. 7); and (iii) the alleged impact of this case on "substantial utility interests in all parts of the country" (Pet. 7, 12). None of these reasons is valid.

- (i) *The Commission's interpretation is not long-standing and few, if any, assets have been divested under it.*

The Commission's present interpretation of Clause (A) is not, as claimed, a long-standing administrative interpretation³ under which more than \$2,000,000,000, or any other substantial amount, of assets have been divested.

³ The Petition appears to state several different interpretations, but none of them is long-standing. They are (i) that the economies lost must be "such as to render the additional system incapable of sound and economical operation" (Pet. 2); (ii) that the additional system cannot be operated separately "without the loss of economies so important as to cause a serious impairment" (Pet. 5); and (iii) that the additional system must be "incapable of independent economical operation" (Pet. 12).

Of the cases cited, those involving divestitures of approximately \$1,062,800,000 of assets,⁴ or more than half, directly contradict the Petition's argument. The interpretation applied was the one set forth by the Commission in *North American*, which was approved on review by the Second Circuit, and followed by the Commission in later cases: namely, a loss of economies which would be important or significant in light of the circumstances. It was basically the same as the interpretation which was adopted by the court below in the instant case, but is now being opposed by the Petitioner. It was stated by the Commission in *North American* in these words:

"The normal and usual meaning of the word 'substantial' is a meaning connoting 'important'. And we think that this normal and usual meaning is compelled here. The degree of importance must be measured against the vital policy to which Clause (A) is an exception, *i.e.*, the policy of limiting holding companies to the operation of a single integrated public utility system."⁵

In *Engineers*,⁶ involving another divestiture of approximately \$23,600,000 of assets, the Commission stated an intermediate test—loss which "would seriously impair the effective operations of the systems involved" (not merely be important and yet not necessarily render effective operations impossible); but the actual decision rested on inadequacy of proof.

⁴ See Item 1 in Appendix B to this Brief.

⁵ *North American Co.*, 11 S.E.C. 194, 209 (1942); *North American Co. v. SEC*, 133 F.2d 148, 152 (2nd Cir. 1943), *aff'd on constitutional issues*, 327 U.S. 686 (1946). In contrast to its present unqualified reliance on Senator Wheeler's post-enactment remark (referring to a system so small that it is "incapable of independent economical operation"), the Commission in *North American* viewed his statement as doing no more than shedding "some light on the background", reinforcing the Commission's conclusion that Clause (A) was intended as a "significant standard" and refuting *North American's* argument that "substantial economies" meant only something more than "purely nominal". 11 S.E.C. at 209.

⁶ See Item 2 in Appendix B to this Brief.

Additional divestitures⁷ of approximately \$750,100,000 of assets are irrelevant for the reason that the evidence in the cases was insufficient under any standard, and the Commission disposed of all of them without stating any interpretation of Clause (A).

The three remaining cases⁸ involve divestiture of approximately \$146,400,000 of assets, or less than 7½% of the \$2,000,000,000 claimed by the Petition. In these three cases only has the Commission stated as its interpretation of Clause (A) a standard similar to its present interpretation, and in none of them does it appear that such interpretation was the determining factor. In *Philadelphia* (chronologically the ninth case on the Commission's list of thirteen and the first to set forth as the Commission's interpretation the test now asserted to have been the basis of the decision in all of them), the opinion on the Section 11(b)(1) question was devoted principally to an analysis of the evidence submitted by the respondent, which the Commission rejected in its entirety. In the second case, *General Public Utilities*, the respondent did not contest divestiture, and in the third case, *Middle South Utilities*, the respondent had submitted no study of any kind to show the economies to be lost by the additional system upon severance.

In brief, Respondents contend that the test now stated by the Commission has not been determinative in any of the administrative decisions cited in the Petition.

(ii) *The Circuits accord.*

As pointed out by the court below (Pet. 6a), there has been some diversity of view expressed by circuit court judges; but there has been no direct conflict in the actual decisions.

⁷ See Item 3 in Appendix B to this Brief.

⁸ See Item 4 in Appendix B to this Brief.

The first judicial interpretation of Clause (A) was in the Second Circuit. The court there approved the Commission's interpretation in *North American* noted above: that "substantial" economies means "important" economies and not merely something more than nominal.⁹ The court naturally made no reference to the Commission's present interpretation, as it had not then been formulated.

In the second case (*Engineers*),¹⁰ the District of Columbia Court of Appeals adopted the Second Circuit's interpretation in *North American*. However, the principal issue was not the meaning of "substantial" but whether the net effect of divestment could be established by evidence of operational savings through combined operations, without more. On this question the court divided, with the majority approving the Commission's requirement of "a clear and convincing showing that the operational savings through combination would be sufficient to support a finding that such single item of saving would constitute an overall substantial economy." Deciding the case on the inadequacy of the evidence, the majority did not reach the Commission's interpretation of "substantial" as used in Clause (A).¹¹

⁹ *North American Co. v. SEC*, 133 F.2d 148, 152 (2d Cir. 1943), *aff'd on constitutional issues*, 327 U.S. 686 (1946).

¹⁰ *Engineers Pub. Serv. Co. v. SEC*, 138 F.2d 936, 944 (D.C. Cir. 1943), *cert. granted*, 322 U.S. 723 (1944), *dismissed as moot*, 332 U.S. 788 (1947).

¹¹ The dissent by Judge Soper suggested that substantial savings in operational expenses can be substantial economies, and so in his dissent (unlike the majority opinion) the standard applied by the Commission had to be considered. Judge Soper's view was that the Commission was "putting it too strongly" to say "that there must be clear and convincing evidence of loss of economies which would seriously impair the efficiency of the systems." 138 F.2d at 945.

In *Philadelphia*, its second case involving Clause (A), the District of Columbia Court of Appeals held that the Commission had not acted unreasonably in rejecting the utility's estimate of increased operating expenses as insufficiently established.¹² The court added, moreover, that as stated in *Engineers*, the mere showing of a material saving in operational expense did not necessarily show the overall situation. The court then went on and agreed that the Commission could find support for its interpretation of "substantial economies" in parts of the legislative history. However, the court did not hold that the Commission's interpretation of "substantial" was correct; for purposes of the decision that was not necessary. The court concluded its discussion as follows:

" 'Substantial' is a relative and elastic term. Petitioners concede that economies, to be substantial, must be 'important'. We cannot say the Commission's understanding of the term 'substantial economies' is wrong. We construed it similarly in the *Engineers* case.'"¹³

In *Louisiana*, the most recent case before this one, the Fifth Circuit expressly rejected the Commission's interpretation of Clause (A) advocated here, and also noted that neither *Engineers* nor *Philadelphia* had accepted that interpretation.¹⁴

In sum, the Commission's present interpretation has been placed squarely in issue twice—in this case, and in *Louisiana*. Each time it has been rejected. The earlier cases, *North American* and *Engineers*, do not conflict, as they involved a far less severe test. *Philadelphia's* support for the Commission's interpretation is weak: it is

¹² *Philadelphia Co. v. SEC*, 177 F.2d 720, 724 (D.C. Cir. 1949).

¹³ 177 F.2d at 725.

¹⁴ *Louisiana Pub. Serv. Comm'n v. SEC*, 235 F.2d 167, 173 (5th Cir. 1956), *rev'd on jurisdictional grounds*, 353 U.S. 368 (1957).

dictum, and the court itself thought it was going no further than it had in *Engineers*. The law under Clause (A) is thus sufficiently settled, and this Court's review is unnecessary.

(iii) *The question presented is not of sufficient general importance to require review.*

The Holding Company Act was adopted in August, 1935. By Section 11(b) the Commission was directed "as soon as practicable after January 1, 1938" to require registered holding companies to comply with the integration and structural requirements imposed by that Section.

Now, thirty years after enactment, the basic purpose of the Act—the rationalization of the gas and electric utility industry—has been fulfilled. Last year the Chairman of the Commission so stated.¹⁵ He also termed the Act a "vestigial duty" of the Commission, but noted that retention of the Act as a duty of the Commission would have the limited effect of inhibiting the rebirth of abuses. This preventive duty is the function of other sections of the Act, not of Section 11, and is not in issue here.

The mere fact that during this entire period, in which on any theory the great bulk, if not all, of the necessary Section 11(b)(1) reorganizations have been accomplished, this Court has not once had to pass on the issue now presented goes a long way in refuting the claim that it is of significant general interest or importance or may be expected to "affect substantial utility interests in all parts of the country" in the future (Pet. 7).

The Petition cites only four "possible future Section 11(b)(1) proceedings" (Pet. 12-13). Three of these are no more than secondary issues left over from Section 11 pro-

¹⁵ Cary, *Administrative Agencies and the Securities and Exchange Commission*, 29 Law & Contemp. Prob. 653, 655 (1964).

ceedings otherwise completed in the 1940's and early 1950's.¹⁶ The fourth involves a local gas utility service in Wilmington, Delaware and environs.¹⁷ These problems, if such they are, have existed at least since 1938. They are not nation-wide but local. Their continuing existence over the years and the absence of any Commission order with respect to them indicate that they certainly have not been and are not now matters of serious concern.¹⁸

The Petition also expresses concern over possible problems in one proposed regional combination of utilities, and two proposed joint generating facilities, one of which is apparently only "under discussion" (Pet. 13-15). Two of these matters will not involve the ABC tests of Section 11, but rather the provisions of Section 10, which provide the Commission ample power to prevent the creation of new Section 11(b)(1) problems. In the Commission's own view, the ABC tests of Section 11 are not reached in a Section 10 proceeding, and hence resolution of the problems of possible future combinations does not depend on determination

¹⁶ See *Utah Power & Light Co.*, 14 S.E.C. 764, 784-85 (1943); *Columbia Gas & El. Corp.*, 17 S.E.C. 494, 522-24 (1944); *Middle South Util., Inc.*, 35 S.E.C. 1, 15 (1953).

¹⁷ *Delaware Power & Light Company*. See *Moody's Public Utility Manual* 442 (1965).

¹⁸ See *Dean, Twenty-five Years of Federal Securities Regulation by the Securities and Exchange Commission*, 59 Colum. L. Rev. 697, 741-42 (1959). Further, the Commission itself has recognized that there is no policy in the Act against combined gas and electric operations, a conclusion with which the Court below concurred (Pet. 13a n. 10, 22a-23a.). And see Representative Eicher's statement that a regionally integrated public-utility system like New England Power Association (the former name of New England Electric System) and essentially intrastate holding companies like Pacific Gas and Electric, both of which had electric and gas businesses, are exempted from the elimination provisions of Section 11 of the strict Senate bill. H.R. Rep. No. 1318, 74th Cong., 1st Sess. 49 (1935).

of the question presented in this case.¹⁹ The third matter (the Snake River project) has been before the Federal Power Commission for over ten years.²⁰ It might, at some time in the future,²¹ involve Section 11(b) of the Holding Company Act, but more probably would arise under Section 10. At present it is not possible to predict when, if ever, or in what posture or under what section the case may come up for decision.

(iv) *The decision below is correct.*

The opinion below of the First Circuit is strong and well reasoned. It speaks for itself and few (if any) words are needed here to answer the criticisms voiced in the Petition (Pet. 15-16).

The Petition contends that the lower court erred in not imposing a completely artificial construction on the words "substantial economies", and attempts to support that contention by stating that the court rejected relevant legislative history. This argument is without merit. The opinion below takes fully into account the legislative history (Pet. 6a-9a, 12a, 15a), including the analysis made in the House Managers' Report, Senator Wheeler's prejudiced remarks made after the passage of the Act, and the statements made by Representatives O'Connor and Cooper.

The suggestion that the decision below undermines the major aim of limiting each holding company to a single integrated system ignores the fact that the Act affirmatively requires the Commission to permit the retention of additional systems if they meet the ABC tests. The Court properly examined the language to determine its intent instead of distorting the language to fit an assumed intent.

¹⁹ See American Gas & Electric Co., 22 S.E.C. 808, 815 (1946).

²⁰ See Pacific Northwest Power Co., 14 F.P.C. 644 (1955).

²¹ See Pacific Northwest Power Co., SEC Holding Co. Act Release No. 15026 (March 3, 1964).

The assertion that accepting the common meaning of the statutory words "substantial economies" does not comport with Congress' intent to provide a definite test of qualification for retention ignores the obvious fact that the test for which the Petition argues is itself indefinite, subjective and difficult of application (See Pet. 6a n. 5, 9a n. 7). The phrase "incapable of sound and economical operation" appears to be no more definite and specific or conducive to voluntary divestiture than the phrase "loss of substantial economies". Each phrase requires some exercise of judgment.

Apparently the Petition's principal complaint is, that the lower court declined to follow the Commission's administrative construction of Clause (A). The record of the Commission's construction of the clause, as shown above (pp. 5-7), is not such as to impress a court or to bring into operation what the Petition refers to as "the accepted canons of construction", giving weight to "longstanding administrative construction" (Pet. 15).

Finally, the Petition suggests that the lower court incorrectly relied on what it perceived to be the symmetry of the Act, referring particularly to the fact that the statute combines language drafted in the House, the Senate and in conference. Irrespective of origins, the Act discloses a remarkably clear unity of purpose and coherence of implementation. This kind of symmetry is both relevant and important. The definitions in Section 2(a)(29) governing combinations in a single system first appeared in the House version of the Act, and the Senate and House conferees had these definitions before them when they agreed to insert in Section 11 the present provisions governing combinations of several systems. It would indeed require compelling reasons, not present here, to warrant giving the identical words "substantial economies" different meanings in these two places. In fact, this principle has in the past been recognized by the Commission with

respect to Sections 2(a)(29) and 11(b)(1).²² It was stated to this Court by the Commission in its reply brief defending its interpretation of Clause (A) in *Engineers*:

"Indeed the relationship of dependence required for retention is particularly clear in the case of gas properties because the definition of a single integrated system in Section 2(a)(29)(B) applicable to gas properties substantially overlaps the standards of the (A) and (C) clauses of Section 11(b)(1), as they apply to additional systems. Thus it is clear that Congress intended the relationship between a single system and an additional system should be comparable to that between parts of the same system. . . ."²³

CONCLUSION

The Petition for a writ of certiorari should be denied.

Respectfully submitted,

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November 23, 1965

²² North American Co., 11 S.E.C. 194, 214 (1942); Cities Serv. Power & Light Co., 14 S.E.C. 28, 59 (1943); Commonwealth & Southern Corp., 26 S.E.C. 464, 488-89 (1947). See also Lone Star Gas Corp., 12 S.E.C. 286, 295 (1942), and United Gas Improvement Co., 9 S.E.C. 52, 72 (1941).

²³ Reply Brief for Commission pp. 19-20, *Engineers Pub. Serv. Co. v. SEC, cert. granted*, 322 U.S. 723 (1944), *dismissed as moot*, 332 U.S. 788 (1947).

APPENDICES

APPENDIX A

STATUTE INVOLVED

SECTIONS 1(b)(4)-(5), AND (c), 2(a)(29), AND 11(b)(1)
OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935¹

SECTION 1. (b) . . . [I]t is hereby declared that the national public interest, the interest of investors in the securities of holding companies and their subsidiary companies and affiliates, and the interest of consumers of electric energy and natural and manufactured gas, are or may be adversely affected—

. . .

(4) when the growth and extension of holding companies bears no relation to economy of management and operation or the integration and coordination of related operating properties; or

(5) when in any other respect there is lack of economy of management and operation of public-utility companies or lack of efficiency and adequacy of service rendered by such companies, or lack of effective public regulation, or lack of economies in the raising of capital.

(c) When abuses of the character above enumerated become persistent and widespread the holding company becomes an agency which, unless regulated, is injurious to investors, consumers, and the general public; and it is hereby declared to be the policy of this title, in accordance with which policy all the provisions of this title shall be interpreted, to meet the problems and eliminate the evils as enumerated in this section, connected with public-utility holding companies which are engaged in interstate commerce or in activities which directly affect or burden interstate commerce; and for the purpose of effectuating

¹ 49 Stat. 803-04, 810, 820 (1935), 15 U.S.C. §§ 79a(b) and (c), 79b(a)(29), 79k(b)(1) (1964).

such policy to compel the simplification of public-utility holding-company systems and the elimination therefrom of properties detrimental to the proper functioning of such systems, and to provide as soon as practicable for the elimination of public-utility holding companies except as otherwise expressly provided in this title.

SECTION 2. (a) When used in this title, unless the context otherwise requires—

(29) “Integrated public-utility system” means—

(A) As applied to electric utility companies, a system consisting of one or more units of generating plants and/or transmission lines and/or distributing facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation; and

(B) As applied to gas utility companies, a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation: *Provided*, That gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region.

SECTION 11. . . .

(b) It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system: *Provided, however,* That the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation.

APPENDIX B

CLASSIFICATION OF ADMINISTRATIVE CASES LISTED IN APPENDIX B TO THE PETITION.¹

	Assets Divested
1. Cases stating or following test set forth by the Commission in <i>North American</i> (11 S.E.C. 194 (1942)); basically the same test adopted by the court below in this case:	
North American Co., 11 S.E.C. 194, 209 (1942)	\$ 659,158,089
Cities Serv. Power & Light Co., 14 S.E.C. 28, 37, 47-48 (1943) ²	59,995,535
Middle West Corp., 15 S.E.C. 309, 319 (1944)	97,751,921
Cities Serv. Co., 15 S.E.C. 962, 984 (1944)	148,258,253
American Gas & El. Co., 21 S.E.C. 575, 596-97 (1945)	97,684,103
Sub total	<u>\$1,062,847,901</u>
2. Proof inadequate but an intermediate test stated, namely, the loss "would seriously impair the effective operations of the systems involved" (12 S.E.C. at 61):	
Engineers Pub. Serv. Co., 12 S.E.C. 41, 57-65, 79-81, 86-88 (1942)	<u>\$ 23,571,236</u>
3. Evidence insufficient under any standard and no interpretation of Clause (A) stated by Commission:	
North American Co. (St. Louis Properties), 18 S.E.C. 611, 613-15, 621 (1945)	\$ 13,129,400
Peoples Light & Power Co., 20 S.E.C. 357, 380-81 (1945)	182,000
Commonwealth & Southern Corp., 26 S.E.C. 464, 487-90 (1947) ³	722,259,916

B-2

	Assets Divested
Penn. Gas & Elec. Corp., 28 S.E.C. 553, 558 (1948)	\$ 2,349,409
Eastern Util. Ass'tes, 31 S.E.C. 329, 348-52 (1950)	12,234,309
Sub total	<u>\$ 750,155,034</u>
 4. Test similar to Commission's present interpretation stated, but not determinative:	
Philadelphia Co., 28 S.E.C. 35, 46-47, 53-74 (1948)	\$ 113,605,913
General Pub. Util. Corp., 32 S.E.C. 807, 814-15, 826-27, 831 (1951)	13,757,386
Middle South Util., Inc., 35 S.E.C. 1, 11-13 (1953)	19,061,622
Sub total	<u>\$ 146,424,921</u>
Grand Total	<u><u>\$1,982,999,092</u></u>

¹ Figures are taken from said Appendix B as they cannot in most instances be verified from the cited cases.

² Includes one subsidiary (net assets of approximately \$422,000 or only approximately 1% of the assets ordered divested in the case) as to which the Commission said that, although it was small, the record did not show the company was "incapable of economic, independent operation". This was viewed as "one of the guides which (*among others*) Congress intended to be used. . . ." 14 S.E.C. at 62. (Emphasis added.) Significantly, this language was not cited in support of the interpretation stated in *Philadelphia*. (See Item 4 above.)

³ Includes one subsidiary (net assets of approximately \$28,000,000 or only approximately 4% of the assets ordered divested in the case) which the utility had agreed to divest and which the Commission held not retainable under Clause (C) but as to which the Commission also quoted the language stated in note 2 above. 26 S.E.C. at 487, 489.

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In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 636

SECURITIES AND EXCHANGE COMMISSION, PETITIONER

v.

NEW ENGLAND ELECTRIC SYSTEM, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT

BRIEF FOR THE SECURITIES AND EXCHANGE COMMISSION

OPINIONS BELOW

The opinion of the court of appeals (R. 1455-1471) is reported at 346 F. 2d 399. The findings and opinion of the Securities and Exchange Commission, dated March 19, 1964 (R. 1254-1282), are reported in the Commission's Holding Company Act Release No. 15096.

JURISDICTION

The judgment of the court of appeals was entered on June 4, 1965 (R. 1471-1472). On September 2, 1965, Mr. Justice Black extended the time to file a petition for a writ of certiorari to October 2, 1965. The petition was filed on October 1, 1965, and was

granted on December 13, 1965 (R. 1472). The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

QUESTION PRESENTED

Section 11(b)(1) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79k(b)(1), permits a registered holding company to control one or more integrated public-utility system in addition to its principal integrated system only if the Commission finds, *inter alia*, that "Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system * * *." The question presented is whether the court below erred in rejecting the Commission's longstanding interpretation that, under this provision, "the loss of substantial economies" must be such as to render the additional system incapable of sound and economical operation independent of the principal system and in holding instead that the required loss is merely one which, in ordinary business parlance, is of a substantial nature.

STATUTE INVOLVED

Section 11(b)(1) of the Public Utility Holding Company Act of 1935, 49 Stat. 820, 15 U.S.C. 79k(b)(1), provides in pertinent part:

It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commis-

sion shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system, * * * *Provided, however,* That the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system * * *.

Pertinent parts of Section 1 and Section 2(a)(29) of the Act are set forth in an Appendix, *infra*, pp. 41-44.

STATEMENT

On August 5, 1957, the Securities and Exchange Commission instituted proceedings under Section 11 (b)(1) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79k(b)(1), to determine the extent to which New England Electric System ("NEES"), a holding company registered under Section 5 of the Act, 15 U.S.C. 79e, could lawfully retain control over the electric, gas and other properties in its holding company system. The initial phase of the proceedings terminated on February 20, 1958, when the Commission held that the electric utility subsidiaries of NEES comprised an "integrated electric utility system" as defined in Section 2(a)(29)(A), 15 U.S.C. 79b(2)(29)(A).¹ NEES elected to retain

¹ *New England Electric System*, 38 S.E.C. 193.

its electric system as its "single" or "principal" system, and the Commission proceeded to hold further hearings, commencing May 18, 1960, on the question whether NEES's gas utility subsidiaries—which both NEES and the Commission's staff agreed to consider as constituting an "integrated gas utility system" within the meaning of Section 2(a)(29)(B), 15 U.S.C. 79b(a)(29)(B) (R. 23-24, 46-47, 49, 772; see *infra*, p. 22)—could be retained by NEES as an "additional integrated public-utility system" under Section 11 (b)(1).²

At the commencement of the gas integration proceedings, NEES controlled, *inter alia*, fourteen electric utility companies, eight gas utility companies and a service company. The retail electric companies served 824,000 customers in a franchise area of 4,600 square miles within the States of New Hampshire, Massachusetts, Rhode Island and Connecticut (R. 1256-1257).³ The gross investment in electric plant and equipment, as of December 31, 1958, was approximately \$600,000,000, and gross revenues from sales of electricity in 1958 were approximately \$143,000,000 (R. 1256-1257).

NEES's gas subsidiaries provided retail service to 237,000 customers in a franchise area of 660 square

² NEES has not contested the Commission's longstanding interpretation that an "integrated public-utility system" cannot include both gas and electric utility properties. See *Columbia Gas & Electric Corp.*, 8 S.E.C. 443, 461-463; *The United Gas Improvement Co.*, 9 S.E.C. 52, 77-83; *Philadelphia Co.*, 28 S.E.C. 35, 44.

³ The figures used herein are for the year ended December 31, 1958, which was the latest year for which audited financial statements were available at the time of the hearings (R. 1257).

miles entirely within Massachusetts. Seventy-five percent of this area was also a part of the franchise area of NEES's electric subsidiaries, and about 78 percent of the gas customers were also served by NEES's electric subsidiaries. As of December 31, 1958, NEES's investment in gross gas plant and equipment was approximately \$56,300,000, and gross revenues in 1958 from the sale of gas were \$22,700,000 (R. 1257-1258). Except for manufactured gas used only during peak periods and for emergency standby purposes, NEES sells natural gas obtained by pipeline from the southern United States. Of the twelve Massachusetts nonaffiliated gas companies which respondents selected during the proceedings for comparison with NEES, only one exceeded the NEES gas utility system in size of gross plant, gross annual revenues or number of customers (R. 1272, n. 24, 1365).

NEES acquired most of its gas subsidiaries between 1926 and 1931. In 1952, "as a step in effectuating compliance by NEES with the integration provisions of Section 11(b)(1) of the Act," NEES proposed to sell its Massachusetts gas properties as a unit⁴ and obtained three bids therefor (R. 70, 58, 1258, 1264, n. 13). Although a contract was entered into with the highest bidder, it was not consummated because the purchaser failed to obtain the anticipated financing (R. 48, 70, 1258). In the same year, NEES established a Gas Division to supervise its eight gas companies, all of which are within 48 miles of the

⁴ *New England Electric System, Holding Company Act Release No. 11016 (1952).*

Division headquarters except one company, which is 80 miles away (R. 1257-1258). The head of the Gas Division is also the president of each gas company and is ultimately responsible to NEES's vice-president in charge of management (R. 1305). Notwithstanding the creation of this Division, certain aspects of the electric and gas businesses continue to be handled on a joint basis (R. 1258).

After a full hearing, the Commission determined that the divestment of NEES's gas utility companies would not result in a "loss of substantial economies" to those companies within the meaning of Section 11(b)(1)(A) (R. 1255-1280) and ordered that they be divested (R. 1280-1281). The Commission found that NEES's estimate of the loss of economies flowing from divestiture was exaggerated,⁵ and that,

⁵ After the Commission reduced NEES's original estimate by \$67,000 to take account of certain revised payments (R. 1264-1265)—the correctness of which deduction NEES does not dispute (see R. 1456, n. 1)—NEES urged that the amount of lost economies would be \$1,098,000 a year. This figure was based upon a Gas Severance Study prepared by Ebasco Services, Inc. The Commission found that the estimated increase in annual operating costs of the combined gas companies after severance was inadequately supported in that there were unexplained inconsistencies, particularly with respect to the figure for customer accounting, which represented approximately 40 percent of the estimated total increased expenses and which may have been substantially overstated (R. 1265-1266). The Commission also found that a "supplemented Ebasco study, which assumed that the gas system would be operated on a combined basis, estimated the same increase in customer accounting costs as appeared in the original Ebasco study, which was based on the assumption that the companies would be operated separately," and it found that NEES and Ebasco failed adequately to explain "why combined operations would not re-

even if it were to accept NEES's figure, NEES had failed to show a "loss of substantial economies" within the meaning of Clause (A). In so holding, the Commission interpreted the relevant provision, as it has done in prior divestment cases dating back more than twenty years, to require a showing that each "additional system cannot be operated under separate ownership without the loss of economies so important as to cause a serious impairment of that system" (R. 1262-1263). Under this test, the Commission ruled that, on the basis of the record before it, it was unable "to find that the gas companies could not be soundly and economically operated independently of NEES * * *" (R. 1279).

On NEES's petition for review (R. 1286-1294), the court of appeals reversed the Commission's order—not on the ground that the Commission's conclusions were unwarranted under the test which it had applied—but on the theory that the Commission had misinterpreted the statutory phrase "loss of substantial economies" (R. 1458-1466). The court held "that clause (A) called for a business judgment of what would be a significant loss * * *" (R. 1464) and, concluding that on the record there could have been a finding in NEES's favor under this standard (R. 1466), remanded the case to the Commission.

sult in lesser amounts for such costs" (R. 1265-1266). The Commission, in spot-testing the Ebasco study, examined Ebasco's estimates of treasury and accounting expenses in two communities where NEES's subsidiaries operated both gas and electric companies and found great disparities between the estimated increases in expenses attributed to the electric companies and those attributed to the gas companies (R. 1267-1268).

SUMMARY OF ARGUMENT

A. The primary aim of Section 11(b)(1) was to restrict a holding company's control over operating utility companies to one integrated public utility system. This theme constantly recurs in the congressional material—from the report of the National Power Policy Committee, which prepared the first draft of the holding company bill, to the Statement of the Managers on the Part of the House, appended to the report of the conference committee which ultimately produced the present version of the Act. The bill that the Senate first passed flatly prohibited central control of more than a single integrated system. This was modified by the House to provide for flexibility by giving the Commission almost complete discretion to determine which additional integrated systems, if any, a holding company could retain. In conference, the House's desire for flexibility was satisfied by specifying certain narrow conditions "under which," in the words of the House Managers, "exception should be made to the form of one integrated system." H. Rep. No. 1903, 74th Cong., 1st Sess., 71. The exception in Clause (A) would be called into play, the House Managers reported, only where "a real economic need on the part of the additional integrated systems" was shown. *Ibid.* This need cannot be demonstrated merely by showing what in ordinary business parlance would be a significant loss. Rather, as the Commission held, Congress required a showing of such a relationship between the principal and the additional systems that

the latter could not operate soundly and economically independent of the former.

The Commission's reading of Clause (A) is fully consonant with the Act as a whole. The court of appeals' interpretation, on the other hand, unduly emphasizes the reference to "economy of management" in Section 1(b) of the Act, at the cost of distorting the basic congressional purpose. The court also erred—in both its factual premise and its reasoning—in basing its rejection of the Commission's interpretation on the ground that the Commission erroneously gave different meanings to the words "substantial economies" when used in two different parts of the Act. The Commission did not in fact adjudicate the issue whether there were "substantial economies" as used in Section 2(a)(29)(B) (which defines "integrated gas system") but merely accepted its staff's concession that NEES's gas companies formed an integrated system as defined in that section, in order to expedite resolution of the critical question under Section 11. The court's treatment of this salutary issue-narrowing procedure—followed by most administrative agencies and encouraged by Congress—was wholly unjustified. In any event, there is no inconsistency in a reading of the Act which gives full effect to the congressional policy in favor of grouping geographically-related properties into a single system for operational purposes (reflected in Section 2(a)(29)(B)) as well as to the policy against holding-company retention of more than one integrated system other than in exceptional circumstances (reflected in Section 11(b)(1)(A)).

B. The court below erred in failing to accord any weight to the Commission's interpretation of Section 11(b)(1)(A). When Congress entrusts the application of a general standard, such as "the loss of substantial economies," to an administrative agency, this Court has made it clear that the agency's view as to the meaning of the statutory standard, unless manifestly unreasonable, is entitled to great deference. Respondents cannot justify the court of appeals' failure to give due regard to the administrative construction on the ground that in the present case the Commission applied a test different from that which it has consistently used in the past. Respondents concede that the Commission applied the same test in this case that it stated in the *Philadelphia Co.* case in 1948, and analysis of the Commission's other decisions shows that the test the Commission articulated here is basically the same as that it has consistently applied in the past. Nor can it seriously be contended that the Commission's interpretation in the present case is manifestly unreasonable. The legislative history and statutory framework as well as the fact that the Court of Appeals for the District of Columbia Circuit has twice construed the provision in the same manner as the Commission, give weighty support to the Commission's construction.

C. One practical difference of major importance between the Commission's interpretation and that of the First Circuit should be pointed out. A major evil of control over both gas and electric utility systems by a single holding company is the favoring by the controlling company of one otherwise competitive

form of energy over the other. It is clear that Congress intended that the Commission should deal with this problem under Section 11(b)(1), and the Commission in fact took the anticompetitive consequences of retention into account in the present case. The court's interpretation of Clause (A), however—requiring a finding of the beneficial effect of divestiture upon competition solely in terms of dollars or percentages—does not properly leave room for meaningful consideration of this crucial competitive factor, since competitive consequences are not capable of precise measurement in these terms. Abandonment of the Commission's test for that of the court below, therefore, would, as a practical matter, greatly impair the congressional goal of eliminating "restraint of free and independent competition" set forth in Section 1(b)(2) of the Act.

ARGUMENT

THE COMMISSION CORRECTLY RULED THAT SECTION 11(b)(1)(A) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 PROHIBITS A HOLDING COMPANY FROM RETAINING MORE THAN ONE INTEGRATED PUBLIC UTILITY SYSTEM UNLESS THE COMPANY SHOWS THAT THE ADDITIONAL SYSTEM SOUGHT TO BE RETAINED IS INCAPABLE OF SOUND AND ECONOMICAL OPERATION INDEPENDENT OF THE PRINCIPAL SYSTEM

Congress made it abundantly clear in enacting Section 11—which this Court has recognized as the "very heart of the title"⁶—that the Commission was man-

⁶ See *North American Co. v. Securities and Exchange Commission*, 327 U.S. 686, 704, n. 14, where this language was quoted from S. Rep. No. 621, 74th Cong., 1st Sess., 11.

dated to take such action; it found necessary "to limit the operations [of holding companies] to a single integrated public utility system * * *" (Section 11(b)(1)). To this basic provision, an explicit and, as we shall show, a narrow exception was carved out. Thus, a holding company may continue to control one or more additional integrated public-utility systems only if the Commission finds

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

(B) All of such additional systems are located in one State, in adjoining States, or in a contiguous foreign country; and

(C) The continuation of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation.⁷

Since Congress did not specify what it meant in Clause (A) by "substantial economies," the meaning of that phrase must be derived from the general declaration and its legislative history.

⁷As the Commission noted in 1260-1261), the only issue here involved Clause (A), since the requirements under Clauses (B) and (C) were met.

A. THE HISTORY AND DESIGN OF SECTION 11 (b) (1) (A) SUPPORT THE
COMMISSION'S INTERPRETATION

1. The underlying premise of Section 11 was that an undue extension of the field of operations of a holding company system is not conducive to efficiency, or, in any event, does not result in efficiencies commensurate with the social and economic disadvantages involved. As the National Power Policy Committee reported:⁸

Because * * * [the growth of holding company systems] has been actuated primarily by a desire for size and the power inherent in size, the controlling groups have in many instances done no more than pay lip service to to the principle of building up a system as an integrated and economic whole, which might bring actual benefits to its component parts from related operations and unified management. * * *

Accordingly, Congress determined that the scope of holding company operations had to be strictly limited.

As originally introduced by Representative Rayburn in the House and Senator Wheeler in the Senate, Section 11 of the holding company bill called for the

⁸ Report of the National Power Policy Committee, H. Doc. No. 137, 74th Cong., 1st Sess., 4, appended to S. Rep. No. 621, 74th Cong., 1st Sess. The National Power Policy Committee was an interdepartmental committee appointed by the President and composed of persons in the government most concerned with the power problem. The first draft of what is now the Holding Company Act was prepared by the Committee in collaboration with leaders in the House and Senate. See Hearings Before the Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess., 156.

elimination of all holding company systems which were not "geographically and economically integrated." See S. 1725, Sec. 11(b), 74th Cong., 1st Sess. See also S. Rep. No. 621, 74th Cong., 1st Sess., 32; 79 Cong. Rec. 14781 (March 28, 1935) (remarks of Senator Wheeler). The bill first passed by the Senate contained no provision for the retention by a holding company of more than one integrated public utility system; indeed, it required the complete elimination of holding companies, save in the exceptional circumstance where the Federal Power Commission would certify that continuance of the holding company was necessary for the proper functioning of the integrated system.* The House modified the bill, however, and adopted a substitute which directed the Commission to order holding companies and their subsidiaries to limit their "operations * * * to a single integrated public utility system, except that if the Commission finds that it is not necessary in the public interest to so limit the operations of such holding-company system, the order of the Commission shall require such company to take only such action * * * as the Commission finds necessary to limit such operations to such number of integrated public utility systems as it finds may be included in such holding-company system consistently with the public interest." H. Rep. No. 1318, 74th Cong., 1st Sess., 17. The intent of the House was to allow some flexibility in

* S. 2796, 74th Cong., 1st Sess.; S. Rep. No. 621, 74th Cong., 1st Sess., 32; Hearings Before the House Committee on Interstate and Foreign Commerce on H.R. 5423, 74th Cong., 1st Sess., 333-334.

the administration of Section 11, leaving substantial discretion in the Commission to develop the law on a case-by-case basis.

The House version was strongly criticized on the ground that it was too indefinite to be an effective guide to administration and so broad as to defeat the basic purpose of Section 11.¹⁰ Senator Wheeler, Senate Manager of the bill, agreed with these criticisms, and suggested that the House bill involved an unconstitutional delegation of legislative power to the Commission (79 Cong. Rec. 10842 (July 9, 1935)).

The present provisions in the ABC clauses were inserted in conference. The narrow scope of the exception which these standards permit was explained in the Statement of the Managers on the Part of the House appended to the conference report on the substituted bill finally enacted (H. Rep. No. 1903, 74th Cong., 1st Sess., 70-71):

* * * Section 11 of both [House and Senate] bills * * * authorizes the * * * Commission to require a *holding company to limit its control over operating utility companies to one integrated public-utility system.*

* * *

The conference substitute meets the House desire to provide for further flexibility by the statement of additional definite and concrete circumstances under which exception should be made to the form of one integrated system. * * *

¹⁰ Letter of Joseph P. Kennedy, then Chairman of the Commission, 79 Cong. Rec. 10838 (July 9, 1935); Additional views of Congressman Eicher, H. Rep. No. 1318 on S. 2796, 74th Cong., 1st Sess., 45.

The substitute, therefore, makes provision to meet the situation *where a holding company can show a real economic need on the part of additional integrated systems for permitting the holding company to keep these additional systems under localized management with a principal integrated system.* [Emphasis added.]

Further light was shed on the purpose of the section, as envisaged by the conference committee, by the remarks of Senator Wheeler, a member of that committee, delivered a few minutes after the Senate adopted the conference substitute, but before the bill was enrolled ¹¹ (79 Cong. Rec. 14479 (Aug. 24, 1935)):

Since *both bills accepted the proposition that a holding company should normally be limited to one integrated system*, my colleagues and I conceived it to be our task to find what concrete exceptions, if any, could be made to this rule that would satisfy the demand of the House for some greater flexibility. After considerable discussion the Senate conferees concluded that *the furthest concession they could make would be to permit the Commission to allow a holding company to control more than one integrated system if [among other tests] the additional systems were in the same region as the principal system and were so small that they were incapable of independent economical operation* * * *. [Emphasis added.]

From this review of the legislative history, several points emerge, which, we submit, substantiate the Commission's interpretation of the Act. It is clear that, generally, a holding company was to be limited to a single integrated public utility system. This Court

¹¹ See 79 Cong. Rec. 14520 (Aug. 24, 1935).

expressly recognized this cardinal principle in *North American Co. v. Securities and Exchange Commission*, 327 U.S. 686, 696-697.¹² Whether an additional system was retainable because it came within the narrow exceptions was made to depend on that system's relationship to the principal system. Retention was permissible if it resulted in "the integration and coordination of related operating properties" (see Section 1(b)(4), 15 U.S.C. 79a(b)(4)) under a management single-mindedly devoted to the development of those related properties in "free and independent competition" (see Section 1(b)(2), 15 U.S.C. 79a(b)(2); see also, *infra*, pp. 34-38). But an additional integrated system which was able to stand alone—i.e., capable of managing its own affairs—was to be given its independence.¹³ See *Philadelphia Co.*, 28 S.E.C. 35, 46,

¹² "In essence, [Section 11(b)(1)] confines the operations of each holding company system to a single integrated public utility system with provision for the retention of additional systems only if they are relatively small, located close to the single system and unable to operate economically under separate management without the loss of substantial economies * * *."

¹³ The mere fact that the eight NEES gas companies in 1958 had gross assets in gas plant of \$56,300,000 and gross revenues that year from the sales of gas of \$22,700,000 (R. 1257-1258) demonstrates that we are dealing with an enterprise of a size amply capable of independent operation. Indeed, their gas system is larger than all but one of the Massachusetts companies respondents chose for comparison. Accordingly, the Commission properly found that, even if independent operation of so large a gas system were to increase costs by the claimed \$1,098,000, such loss of economies was not "substantial" in the light of the congressional intent. As the Commission found, "In the instant case, the amount of the estimated loss of economies would be equal to 4.83% of the gas system's operating revenues, 6.03% of operating revenue deductions (excluding federal income taxes) and 23.28% of gross income and 29.94 percent

affirmed *sub nom. Philadelphia Co. v. Securities and Exchange Commission*, 177 F. 2d 720 (C.A. D.C.). In short, "the loss of substantial economies" contemplated by Congress was such a loss as would render the additional system incapable of sound and economical operation independent of the principal system.

This legislative intent—clearly reflected in the Commission's interpretation—was wholly ignored, and consequently undermined, by the court below. Thus, for example, although it noted that the House Managers' Statement (*supra*, pp. 15-16) contained a "pertinent characterization" of the phrase "substantial economies" (R. 1460), the court declined to accord the Statement any weight. This was plainly unwarranted. While the meaning of "real economic need" as used in the Statement may be subject to dispute, it is quite evident that the Statement contemplated a test much stricter than the court of appeals' standard of "a business judgment of what would be a significant loss" (R. 1464).¹⁴ Moreover, nothing in

of net income before federal income taxes" (R. 1270). These ratios—of which the percent of operating revenue deductions is perhaps the most significant—are comparable to those in other gas severance cases in which the Commission had required divestment (R. 1270, 1282).

¹⁴ Also erroneous, in our view, was the court's rejection of Senator Wheeler's statement on the results of the Senate-House conference (*supra*, p. 16). On the ground that the statement was made after the Senate's vote on the conference committee's bill, the court held that it was "not to be given the weight to which it might have been entitled if made at another time" (R. 1460). But the report of a legislator so instrumental in the passage of the statute and so familiar with its provisions and purposes as was Senator Wheeler is entitled to greater respect. This Court has recognized the significance of an "ex-

the history reviewed above suggests that Congress intended the test of retainability to be "a business judgment of what would be a significant loss." Indeed, even the most lenient version of the statute—that first passed by the House—contemplated a more stringent test. See, *supra*, pp. 14-15.

2. The Commission's interpretation of Section 11 (b)(1)(A)—strongly supported, as we have shown, by the legislative history—is fully consonant with the design of the Act as a whole, and the court of appeals' suggestion to the contrary is without merit. In concluding that Section 11(b)(1)(A) "called for a business judgment of what would be a significant loss" (R. 1464), the court below relied on language in the Act's statement of purposes, "the tenor of which," it found, "was that holding companies had been found uneconomical to investors and to the public" (R. 1464). From this premise, the court reasoned, in effect that "economical" holding-company systems—which also meet the requirements of Clauses (B) and (C)—need not be restricted to a single integrated utility system. In so reasoning, the court unduly emphasized one of several congressional policies embodied in the Act, thereby distorting its meaning.

licit statement by the one most responsible" for enactment of a statute (*Leedom v. International Union*, 352 U.S. 145, 150), and the Court of Appeals for the District of Columbia Circuit expressly relied on Senator Wheeler's remarks as a relevant aid to the interpretation of Section 11. See *Philadelphia Co. v. Securities and Exchange Commission*, 177 F. 2d 720, 725; *Engineers Public Service Co. v. Securities and Exchange Commission*, 138 F. 2d 936, 941-942, certiorari granted, 322 U.S. 723, vacated with directions to dismiss the petition for review as moot, 332 U.S. 788.

It is true, of course, that lack of "economy in management and operation" was among the evils of holding-company operations which the Act was designed to eliminate. See Section 1(b)(4), (5).¹⁵ Indeed, several provisions of the Act are plainly designed, in large measure, to assure efficient and economical management. See Sections 7(d)(3); 10(e)(2); 12(d), (f) and (g); and 13. But there is no basis for exalting the goal of eliminating uneconomical management above such other enumerated objectives as "the integration and coordination of related operating properties" (Section 1(b)(4)) and elimination of "restraint of free and independent competition" (Section 1(b)(2); see *infra*, pp. 34-38). Much less is there any warrant to construe the reference to economy of management as precluding the application of Section 11(b)(1) whenever the retention of additional systems would produce operational economies. Such a reading would in large degree nullify the plain mandate of Section 11(b)(1), since—as Congress clearly contemplated¹⁵—in most instances some economies of management (which, presumably, businessmen would view as significant) are likely to result from retention. The Commission's interpretation includes consideration of the Act's policy of eliminating holding company control where such control is unrelated to

¹⁵ See Hearings Before the House Committee on Interstate and Foreign Commerce on H.R. 5423, 74th Cong., 1st Sess., pt. 2, pp. 1249, 1402-1403, 1530-1531, pt. 3, pp. 2257-2277; Hearings Before the Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess., 65. See also *Engineers Public Service Co.* 12 S.E.C. 41, 61, quoted *infra* at p. 30.

"economy of management,"¹⁶ but—unlike the First Circuit's construction—it also takes into account other important congressional objectives.

The court of appeals rejected the Commission's interpretation of Clause (A) on the further ground that the Commission had erred in reading the phrase "substantial economies" therein differently from its reading of the same words in Section 2(a)(29)(B). The latter section defines an integrated gas utility system as "one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system." The court reasoned that since the Commission had treated the gas properties as an integrated gas system, and since NEES alleged that operating such properties together as a single system would result in annual savings of \$329,400, the Commission necessarily must have concluded that "saving \$329,400 annually by integrating the eight gas companies is effectuating substantial economies under section (29)(B), but that \$1,098,600 annually is not substantial economies under clause (A)" (R. 1463, n. 8).¹⁷

¹⁶ See the cases in which the Commission has permitted holding-company retention of "additional" systems under Section 11(b)(1)(A), *infra*, n. 21, p. 31.

¹⁷ The figures were taken from the Ebasco Gas Severance Study introduced by NEES (*supra*, n. 5). No analysis of these figures is called for in the present posture of the case. We point out, however, that in stating the court's premise on the basis of those figures we concede neither that the Ebasco study is accurate nor—more pertinent here—that the estimated saving to the gas companies from operation as an integrated

The court's analysis is faulty because it rests upon (a) an erroneous factual premise and (b) erroneous reasoning.

a. Once NEES had designated its electric system as its principal system, the question was which, if any, of its gas properties it could retain as an additional system. NEES contended that all of its gas companies constituted a single integrated system and the Commission's Division of Corporate Regulation, in order to simplify the issues and to expedite determination of the crucial question under Section 11(b) (1), conceded (R. 772) that the gas companies were an integrated system. The Commission, without making any findings thereon, decided the case on that assumption (R. 1256). This concession, however, made primarily for the purpose of simplifying the decision on the Section 11 issue, cannot fairly be treated as an informed determination by the Commission that the alleged annual savings of \$329,400 resulting from operating the NEES gas companies as a single system constituted "substantial economies" as that term is used in Section 2(a) (29) (B).

It is common practice, before both courts and agencies, for the litigants to stipulate as to a particular issue, in order to eliminate it as a contested point in the case, and for the tribunal to accept such stipulation as a basis for deciding the case. But in thus accepting the stipulation the tribunal

system is, under any interpretation of "substantial economies," comparable to the "loss of economies" which would result from divestment of the gas system under Section 11(b) (1).

cannot be said in any meaningful sense to have determined or adjudicated the issue thus stipulated. To treat the Commission's acceptance of the staff's concession that the NEES gas properties are an integrated system as a formal Commission determination that savings of \$329,400 constitute "substantial economies" under Section 2(a)(29)(B), and then to tax the Commission with inconsistency because it held that additional expenses of approximately one million dollars did not represent the loss of substantial economies under Section 11(b)(1)(A), would be wholly unjustified. It would be at odds with recent salutary developments in administrative procedure designed to narrow, as far as possible, the issue in dispute.¹⁸ For the effect of the court of appeals' ruling, if generally followed, would be to discourage agencies and their staffs from conceding any points in a case for purposes of simplifying the decision, and to cause them to insist that all issues be fully litigated.

b. Assuming, however, that the Commission has read the words "substantial economies" differently in the two sections, that does not vitiate the Commission's interpretation of clause (A). "It is not unusual for the same word to be used with different

¹⁸ See, for example, Section 5(a) of the Administrative Procedure Act, relating to responsive pleadings and to "prompt notice of issues controverted in fact or law" and Section 7(b)(6) of the Act, relating to conferences "for the settlement or simplification of the issues by consent of the parties." See also, *e.g.*, S. 1336, § 5, 89th Cong., 1st Sess. (March 4, 1965), a pending bill to amend the Administrative Procedure Act and to provide for pre-hearing procedures to resolve facts and issues not in dispute.

meanings in the same act, and there is no rule of statutory construction which precludes the courts from giving to the word the meaning which the legislature intended it should have in each instance." *Atlantic Cleaners & Dyers v. United States*, 286 U.S. 427, 433. In the Holding Company Act the test of "substantial economies" serves different functions under Section 2(a)(29)(B) and 11(b)(1)(A), and the words therefore may properly be given different meanings under the two sections.

The determination whether a particular group of utility properties constitutes an integrated system under Section 2(a)(29) serves two purposes in the administration of Section 11(b)(1)(A). First, since the latter section basically limits a holding company to "a single integrated public-utility system," that system must be defined in order to ascertain what properties the holding company may retain without regard to the proviso concerning the retention of additional systems. Second, it is necessary to determine whether the additional properties which the holding company seeks to retain under the proviso themselves constitute an integrated system, since only those properties which make up "additional integrated public-utility systems" are capable of retention under Section 11(b)(1).

In deciding for these purposes whether a group of gas properties constitutes an integrated system, the statutory inquiry under Section 2(a)(29)(B) is whether the properties "are so located and related" that their operation as a "single coordinated system" is likely to produce substantial economies. The an-

swer will depend largely upon the geographic and operational characteristics of and relationships between the properties. As long as the properties are in the same general geographic area and it appears that significant savings will be made by operating them as a "single coordinated system," there is no reason, in terms of the underlying statutory policies involved, why anything more need be shown to justify treating the properties as an integrated system. In other words, the definition of "integrated gas system" in Section 2(a)(29)(B)—like the parallel definition of "integrated electric system" in Section 2(a)(29)(A)—reflects a congressional policy in favor of grouping geographically-related utility properties into a single system for operational purposes.

When it comes to applying the standards of Section 11(b)(1), however, an entirely different policy comes into play. As we have noted, the basic congressional plan in that section was to limit holding companies to a single integrated system, and to permit them to retain additional systems only in those exceptional cases where such retention would meet the exacting requirements of the ABC clauses of the proviso. The fact that Congress approved the grouping of related properties into a single operating system is in no way inconsistent with its determination that a holding company ordinarily should not be permitted to retain more than a single such system.

Thus, when Section 11(b)(1)(A) permits the retention of only those additional systems that cannot be operated independently without the loss of substantial economies, this limitation reflects a congressional pol-

icy not in favor of grouping utility properties but against retention of additional systems other than in exceptional circumstances. In the light of the legislative history (*supra*, pp. 13-16) and the affirmative competitive benefits that result from elimination of joint holding company ownership and control of electric and gas properties (*infra*, pp. 34-38), we submit that "substantial economies" properly may be read as importing a far more stringent standard under Section 11(b)(1)(A) than under Section 2(a)(29)(B).¹⁹

B. THE COMMISSION'S LONGSTANDING INTERPRETATION IS ENTITLED
TO GREAT DEFERENCE

It is a well established canon of statutory construction that "[t]he construction given to a statute by those charged with the duty of executing it is always

¹⁹ Once the court had equated the meaning of substantial economies in Section 11(b)(1) to that in Section 2(a)(29)(B), it was compelled, in order to avoid nullifying the "technical requirements" of Section 2(a)(29)(A), to conclude that the term "substantial economies" in Section 2(a)(29)(B) was stricter than the requirement in Section 2(a)(29)(A) that the electric system "may be economically operated" (R. 1465, n. 11). But there is no reason to believe that Congress intended to provide any different substantive standards of operating savings in the definitions of integrated gas and integrated electric systems. On the contrary, the purpose which these definitions serve—to treat as an integrated system those properties which are so located that they are capable of economical operation in combination—requires the same standard of economies for both gas and electric. In other words, the verbal logic of the court compelled it to suggest different substantive standards where logically Congress would have intended the standards to be the same, in order to support its conclusion that the same standards must be applied in a situation where the congressional intent would appear to call for different standards.

entitled to the most respectful consideration, and ought not to be overruled without cogent reasons." *United States v. Moore*, 95 U.S. 760, 763; *Hastings & Dakota R.R. Co. v. Whitney*, 132 U.S. 357, 366. To sustain the Commission's interpretation of such a statute, the Court "need not find that its construction is the only reasonable one, or even that it is the result [it] would have reached had the question arisen in the first instance in judicial proceedings." *Unemployment Comm'n v. Aragon*, 329 U.S. 143, 153, quoted in *Udall v. Tallman*, 380 U.S. 1, 16.²⁰ This principle, which the court below disregarded, is fully applicable here.

Conceding that, since the *Philadelphia Co.* decision in 1948 (28 S.E.C. 35), the Commission has articulated no different test from the one it applied here, respondents argue that the Commission initially used a test basically the same as that adopted by the court below and then, in *Engineers Public Service Co.*, 12 S.E.C. 41, shifted briefly to a different, intermediate, test. See Brief for Respondents in Opposition, pp. 6-7, App. B. We disagree. As we now show, the criteria articulated by the Commission in the present case are essentially the same as those it has applied ever since it first dealt with the issue involved here.

In *The North American Co.*, 11 S.E.C. 194, 208-213, the Commission's first decision involving Section 11

²⁰ See also, e.g., *Power Reactor Co. v. Electricians*, 367 U.S. 396, 408; *Billings v. Truesdell*, 321 U.S. 542, 552-553; *Gray v. Powell*, 314 U.S. 402; *Universal Battery Co. v. United States*, 281 U.S. 580, 583; *First Nat'l Bank in St. Louis v. Missouri*, 263 U.S. 640, 658; *Surgett v. Lapice*, 8 How. 48, 71.

(b)(1)(A), the agency plainly did not interpret the statute the way the court below did. That case did not directly present the issue whether "substantial economies" meant economies whose loss would cause a serious impairment to the additional system. Recognizing the large size and potential independent strength of its "additional" systems, North American contended primarily that substantial economies meant only something more than nominal or *de minimis* economies. The Commission rejected this argument. Quoting with approval the remarks of Senator Wheeler on the conference committee version of Section 11(b)(1)(A) (*supra*, p. 16), the Commission stated: "These remarks reinforce the conclusion that Clause (A) was intended as a significant standard to be applied only where there was a strong reason for an exception to the general policy of permitting retention of only one integrated system" (11 S.E.C. at 209). In response to the company's argument that the subsidiaries relied upon the holding company for financing, the Commission significantly stressed the importance of independent management, single-mindedly devoted to the operation of integrated properties and to the interests of the stockholders therein. 11 S.E.C. at 211. In the same opinion, the Commission held that certain "smaller" integrated electric utility systems were retainable as additional systems under Section 11(b)(1)(A). 11 S.E.C. at 243-244.

In *Engineers*, the next Commission decision dealing with meaning of the provision in issue here, the Commission reemphasized the same themes which ran

through the legislative history of the Act and which were reflected in its *North American* decision. Flatly rejecting the interpretation espoused by respondents here, the Commission ruled as follows (12 S.E.C. at 57-58):

In prescribing the conditions under which additional systems may be retained, however, Congress did not speak in terms of increased *expenses*. It authorized the retention of additional systems if they could not be operated independently without the loss of substantial *economies*. And in measuring the loss of *economies* accompanying the severance of a combination of two utility systems it is particularly important to consider the beneficial effects of independent ownership upon the efficient operation of each system. A consideration of increased expenditures alone does not adequately reflect the impact of severance upon the two systems. Where, as here, gas and electric operations are conducted in the same territory and in many ways compete with each other, the danger exists that under a single management one business may be suppressed in favor of the other or that one will bear burdens properly allocable to the other. The record before us shows, for instance, that there have been abuses in allocating expenses between gas and electric properties. * * * But that these abuses can most effectively be eliminated by complete severance is unquestionable. Moreover, the possible benefits of unsuppressed development and growth for each business must also be cast in the balance when substantial economies are measured. The economies which

may be expected from a personnel single-mindedly devoted to the operation of either a gas or electric business, although not predictable in precise mathematical terms, cannot be ignored. [*Italics in original.*]

And the Commission further stated (12 S.E.C. at 60-61) :

The statutory scheme contemplates that a holding company will be confined to the operation of a single integrated public utility system and in exceptional cases to certain additional integrated utility systems. And Congress required that the circumstances under which so exceptional a combination can be permitted must depend, among other things, upon a showing that substantial economies would be lost in the break-up of such a combination. Since this requirement is an exception to a clearly expressed general policy, it must be strictly construed. Moreover, in determining what are substantial economies, we must bear in mind that Congress was informed that some loss of economies of the sort principally involved in this situation—in joint administrative, clerical and supervisory services and the use of joint facilities—almost inevitably would accompany separation of jointly controlled utility systems. Against this background we must require clear and convincing evidence of a loss of economies which would seriously impair the effective operations of the systems involved in order to permit the retention of an additional system.

While there was, of course, some variation in choice of words, due for the most part to the varying contentions with which the Commission was dealing, the

views of the Commission in *North American and Engineers*, as in *Philadelphia Co.*, clearly coincide with those expressed in the present case. See R. 1261-1262.²¹ As the Commission summarized its decisions in this area in 1951 (*General Public Utilities Corp.*, 32 S.E.C. 807, 827):

In connection with the phrase "loss of substantial economies" we have repeatedly held that a showing of such a loss has not been made by merely proving that elimination of the common control of the two systems would result in some increase in expenses. For the economies to be "substantial" they must be "important" in the sense that they are of such nature that their loss would cause a serious economic impairment of the system.²²

The principle of judicial deference to the administrative construction was applied by the Court of Ap-

²¹ See also *Cities Service Power & Light Co.*, 14 S.E.C. 28, 37, 47-48; *Commonwealth & Southern Corp.*, 26 S.E.C. 464, 487-490; *Middle South Utilities, Inc.*, 35 S.E.C. 1, 11-13. Cf. *Middle West Corp.*, 15 S.E.C. 309, 319-320, 345; *Cities Service Co.*, 15 S.E.C. 962, 981-989; *Peoples Light & Power Co.*, 20 S.E.C. 357, 380-381; *American Gas & Electric Co.*, 21 S.E.C. 575, 596-598; *Pennsylvania Gas & Electric Corp.*, 28 S.E.C. 553, 557-558; *Eastern Utilities Associates*, 31 S.E.C. 329, 347-352.

For cases in which the Commission has permitted retention of small additional systems, see, e.g., *Engineers Public Service Co.*, 12 S.E.C. 41, 90 (1942); *The North American Co.*, 11 S.E.C. 194, 243-244; *Republic Service Corp.*, 23 S.E.C. 436, 451; *Federal Light & Traction Co.*, 15 S.E.C. 675, 683; cf. *The North American Co.*, 32 S.E.C. 169, 178-180.

²² In both of the cases decided by the Commission since 1951, *Middle South Utilities, Inc.*, 35 S.E.C. 1, and the present case, the Commission adhered to this interpretation. See 35 S.E.C. at 11-13 and R. 1261-1262.

peals for the District of Columbia Circuit in sustaining the Commission's interpretation of Section 11(b) (1)(A) in *Philadelphia Co. v. Securities and Exchange Commission*, 177 F. 2d 720. As that court stated (177 F. 2d at 725):

In the Commission's view, economies are not "substantial" unless their loss "would cause a serious economic impairment of the system" such as to "render it incapable of independent economical operation." * * * "Substantial" is a relative and elastic term. Petitioners concede that economies, to be substantial, must be "important". *We cannot say the Commission's understanding of the term "substantial economies" is wrong.* We construed it similarly in the *Engineers* case. [Emphasis added.]

In the *Engineers* case (*Engineers Public Service Co. v. Securities and Exchange Commission*, 138 F. 2d 936 (C.A.D.C.), certiorari granted, 322 U.S. 723, vacated with directions to dismiss the petition for review as moot, 332 U.S. 788), the same court had upheld the Commission's reading of Section 11(b) (1)(A), expressly rejecting the construction espoused by respondents and the court below. There the court ruled as follows (138 F. 2d at 944):

"Substantial economies", means something different and, we think, something more than substantial savings in operational expenses. Congress could have said that the divorcement shall not be decreed if the controlling utility or the controlled utility show at a hearing that the cost to operate the latter separately from the former would be substantially greater. If the Act can be construed as meaning just that,

then the severance ordered here is wrong. "Substantial economies" must mean, as was said in *North American Co. v. Securities and Exchange Commission*, 2 Cir., 133 F. 2d 148, 152, "important economies." The required *importance* must relate to the healthful continuing business and service of the freed utility. But Congress was not so much concerned with the profit motive of utilities as with the evils that had become prevalent through combinations of utilities. It was first concerned with the wiping out of the evils which the practice of utility combinations had produced, and Congress only consented to dull the blade of its chosen weapon in proved hard cases.

The court also emphasized that, even though there might be a showing of "saving" in a combined operation, it could not be assumed that this "saving would constitute an overall substantial economy," when taking into consideration "so important an event as the freedom of a corporation from the ownership and control of another corporation engaged in a business to some extent intercompetitive * * *" (138 F. 2d at 944). See *infra*, pp. 34-38.

These decisions of the Court of Appeals for the District of Columbia Circuit, coinciding as they do with both the legislative history and the administrative interpretation of the Act, strongly support the Commission's reading of the Act.²³

²³ The only case other than the decision of the court below to reach a construction of Clause (A) contrary to that of the Commission is *Louisiana Public Service Commission v. Securities and Exchange Commission*, 235 F. 2d 167 (C.A. 5), re-

C. THE COMMISSION'S TEST, BUT NOT THAT OF THE COURT BELOW, PERMITS MEANINGFUL CONSIDERATION OF THE COMPETITIVE ADVANTAGES FLOWING FROM THE OPERATION OF THE "ADDITIONAL" GAS SYSTEM INDEPENDENT OF THE "PRINCIPAL" ELECTRIC SYSTEM

The court below read Section 11(b)(1)(A) in a quantitative rather than a qualitative sense. That is, it held that the test whether economies are "substantial" is whether they are sufficiently large—either in dollar amount or as a percentage of revenue or expenses—that reasonable men would deem them significant. On the other hand, as we have shown, the Commission, the Court of Appeals for the District of Columbia Circuit and the Congress considered that the test of substantiality turned on something more than mere size measured in dollars or percentages; *i.e.*, that losses in economies should not be deemed "substantial" unless they rose to the level that they would seriously interfere with the ability of the additional system to operate soundly and economically independently of the principal system. One important practical consequence of this difference in approach is particularly relevant to the present case and merits brief elaboration.

versed on jurisdictional grounds, 353 U.S. 368, in which the court expressly refused to consider legislative history (235 F. 2d at 172) and, like the court below, gave no weight to the administrative construction. That case involved an appeal by a State regulatory agency from the Commission's refusal to reopen a Section 11(b)(1) proceeding. Since this Court ultimately held that the court of appeals was without jurisdiction to review the Commission's order involved there, the Fifth Circuit's disagreement with the Commission's interpretation has no legal consequence. See *In re United Corporation*, 184 F. Supp. 502, 511 (D. Del.), affirmed without consideration of this point, 283 F. 2d 593 (C.A. 3).

In the administration of the Holding Company Act, the issue of loss of substantial economies under Clause (A) has arisen principally in determining whether a holding company whose principal system is electric can retain a gas system. One of the evils that had resulted from the widespread control of public utilities by holding companies that had both gas and electric properties in their systems was the favoring of one of these competing forms of energy over the other.²⁴ Thus in discussing Section 8 of the Act (15 U.S.C. 79h), which prohibits a registered holding company, without the approval of a State regulatory commission, from taking any steps which result in its having an interest in both an electric and a gas utility serving the same territory in a State which prohibits such common control or requires State approval therefor, the Senate Committee explained (S. Rep. No. 621, 74th Cong., 1st Sess., 29) that the section was designed "to prevent the use of the holding company in the future to deny to the public wide-

²⁴ See, *e.g.*, the following colloquy in Hearings Before the Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess., 783:

Senator COUZENS. * * * In other words, if the company found that it was more profitable to develop the electric light business than the gas business, they might block their gas business.

Mr. BENTON. They might.

Senator COUZENS. That is exactly what they do. I know of cases where they do it. * * *

See also Hearings Before the House Committee on Interstate and Foreign Commerce on H.R. 5423, 74th Cong., 1st Sess., 330; Report of National Power Policy Committee, H. Doc. No. 137, 74th Cong., 1st Sess., 10, appended to S. Rep. No. 621, 74th Cong., 1st Sess.

spread and economic use of both natural gas and electric energy merely because it is to the selfish advantage of a given company to foster the use of one of its products as against the other and deprive the public of the benefits of competition between the two * * *.”²⁵ Noting that the original version of Section 8 “contained additional restrictions with regard to * * * the combination of gas and electricity in one system,” the committee stated (*id.* at 7):

This would have necessitated the disposing of certain interests held on the date the title became law, even before the provisions of section 11 became operative. The committee felt that while *the policy upon which this section was based was essential in the formulation of any Federal legislation on utility holding companies*, it did not think that the section should make it unlawful to retain (*up to the time that*

²⁵ See *Cities Service Power & Light Co.*, 14 S.E.C. 28, 65-66, for an illustration of neglect by a holding company of some of its gas operations because of its more profitable electric properties.

The Massachusetts Department of Public Utilities, which participated in this proceeding before the Commission in support of NEES, had stated in an earlier case (*Cambridge Gas Light Co.*, P.U.R. 1930 D, 263, 264-265) that it has been “deemed inadvisable that gas companies should engage in the electric business except under exceptional circumstances, and since 1910, it has been the policy of the commonwealth that no electric company should engage in the business of selling gas.” More recently, in a proceeding involving the separation of the electric and gas properties of a NEES subsidiary, it repeated that its statute “illustrates the long-standing legislative preference for single-business gas and electric companies * * *.” *Lynn Gas and Electric Co.*, 31 P.U.R. 3d 209, 212.

section 11 may require divestment) interests in businesses in which the companies were lawfully engaged on the date of the enactment of the title. [Emphasis added.]

In the present case, the Commission recognized that joint control by NEES of both an electric and a gas system serving the same area could well lead to the favoring of one kind of service to the disadvantage of users of the other. It stated (R. 1274):

Although the NEES Gas Division handles sales and promotional activities and various other matters for the gas subsidiaries separately from the electric companies, final authority on all important matters rests in the top NEES management. The basic competitive position that exists between gas and electric utility service within the same locality is affected by such vital management decisions as the amount of funds to be raised for or allocated to the expansion or promotion of each type of service.

* * *

Of course, the significance of the competitive advantages that either a gas or electric utility and its customers gain when it is freed from the restraints likely to result from joint ownership or control cannot be precisely measured or defined. See *The North American Co.*, 18 S.E.C. 611, 615; cf. *Philadelphia Co. v. Securities and Exchange Commission*, 177 F. 2d 720, 724-725 (C.A. D.C.); *Licht v. New England Power Ass'n*, 160 F. 2d 845, 851 (C.A. 1). Such advantages necessarily involve intangible factors—whether, for example, an independent gas system would have made

the same decision not to expand its facilities that was made for it by a holding company management that also controlled an electric system serving the same area, and what the effect upon the gas system of such an expansion would have been.

Thus, it would be wholly unrealistic to discount by a stated percentage or dollar amount a holding company's estimate of the losses in economies that would result from separation of gas and electric systems, in an attempt accurately to reflect the offsetting gains to competition that such separation would produce. Yet that apparently is precisely what the court of appeals would require the Commission to do in the present case. For the court, although recognizing that the Commission "had the right to consider competitive advantages of separation in offsetting alleged losses of economies," criticized the agency for its "failure to find or articulate any specific or approximate financial benefit that such a change would occasion" (R. 1469-1470). The Commission's interpretation of "substantial economies," however, avoids these difficulties and permits the agency to give effect in a meaningful way to the very real, although immeasurable, substantial competitive advantages that result from elimination of common holding company control of gas and electric systems without being required to perform the impossible task of making dollar predictions about an issue that is incapable of such precise definition.

CONCLUSION

For the foregoing reasons, the judgment of the court of appeals should be reversed.

Respectfully submitted.

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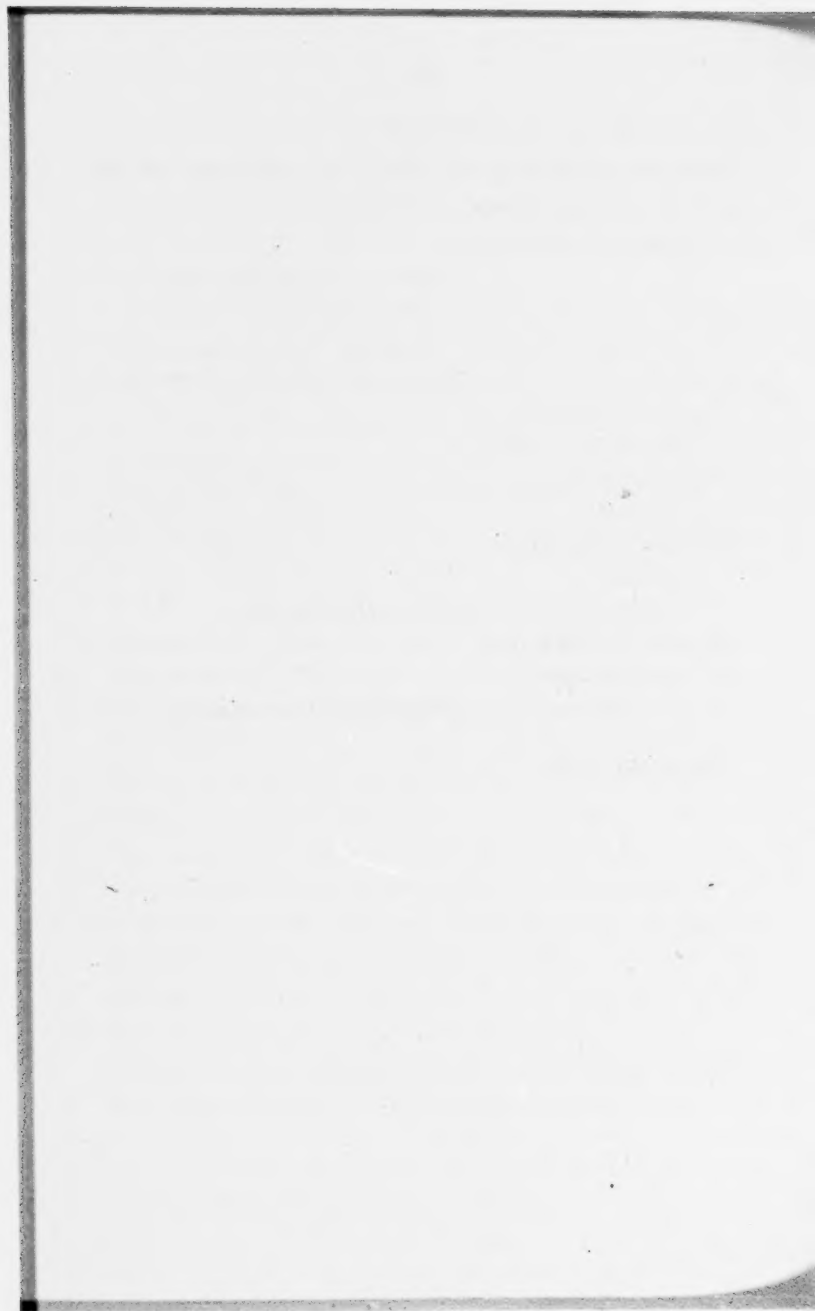
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FEBRUARY 1966.



APPENDIX

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, 15 U.S.C. 79a, *et seq.*

NECESSITY FOR CONTROL OF HOLDING COMPANIES

SEC. 1. (a) Public-utility holding companies and their subsidiary companies are affected with a national public interest in that, among other things (1) their securities are widely marketed and distributed by means of the mails and instrumentalities of interstate commerce and are sold to a large number of investors in different States; (2) their service, sales, construction, and other contracts and arrangements are often made and performed by means of the mails and instrumentalities of interstate commerce; (3) their subsidiary public-utility companies often sell and transport gas and electric energy by the use of means and instrumentalities of interstate commerce; (4) their practices in respect of and control over subsidiary companies often materially affect the interstate commerce in which those companies engage; (5) their activities extending over many States are not susceptible of effective control by any State and make difficult, if not impossible, effective State regulation of public-utility companies.

(b) Upon the basis of facts disclosed by the reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session), the reports of the Committee on Interstate and Foreign Commerce, House of Representatives, made pursuant to H. Res. 59 (Seventy-second Congress, first session)

and H.J. Res. 572 (Seventy-second Congress, second session) and otherwise disclosed and ascertained, it is declared that the national public interest, the interest of investors in the securities of holding companies and their subsidiary companies and affiliates, and the interest of consumers of electric energy and natural and manufactured gas, are or may be adversely affected—

* * * * *

(2) when subsidiary public-utility companies are subjected to excessive charges for services, construction work, equipment, and materials, or enter into transactions in which evils result from an absence of arm's-length bargaining or from restraint of free and independent competition; when service, management, construction, and other contracts involve the allocation of charges among subsidiary public-utility companies in different States so as to present problems of regulation which cannot be dealt with effectively by the States;

* * * * *

(4) when the growth and extension of holding companies bears no relation to economy of management and operation or the integration and coordination of related operating properties; or

(5) when in any other respect there is lack of economy of management and operation of public-utility companies or lack of efficiency and adequacy of service rendered by such companies, or lack of effective public regulation, or lack of economies in the raising of capital.

(c) When abuses of the character above enumerated become persistent and wide-spread the

holding company becomes an agency which, unless regulated, is injurious to investors, consumers, and the general public; and it is declared to be the policy of this chapter, in accordance with which policy all the provisions of this chapter shall be interpreted, to meet the problems and eliminate the evils as enumerated in this section, connected with public-utility holding companies which are engaged in interstate commerce or in activities which directly affect or burden interstate commerce; and for the purpose of effectuating such policy to compel the simplification of public-utility holding-company systems and the elimination therefrom of properties detrimental to the proper functioning of such systems, and to provide as soon as practicable for the elimination of public-utility holding companies except as otherwise expressly provided in this chapter.

DEFINITIONS

SEC. 2. (a) When used in this chapter, unless the context otherwise requires—

* * * *

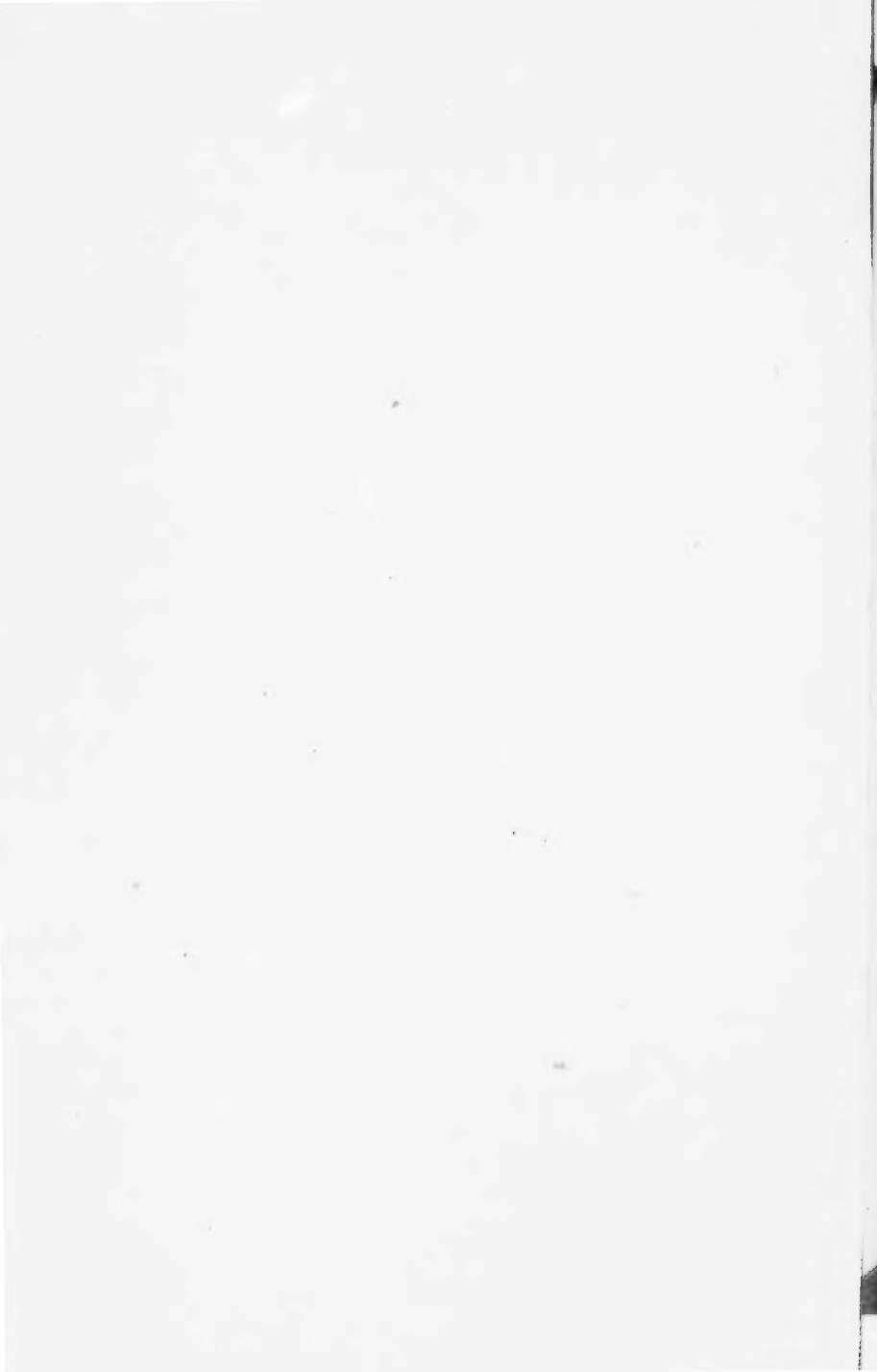
(29) "Integrated public-utility system" means—

(A) As applied to electric utility companies, a system consisting of one or more units of generating plants and/or transmission lines and/or distributing facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in

one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation; and

(B) As applied to gas utility companies, a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation: *Provided*, That gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region.





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IN THE
Supreme Court of the United States

OCTOBER TERM, 1965

No. 636

SECURITIES AND EXCHANGE COMMISSION,
Petitioner,

v.

NEW ENGLAND ELECTRIC SYSTEM ET AL.,
Respondents.

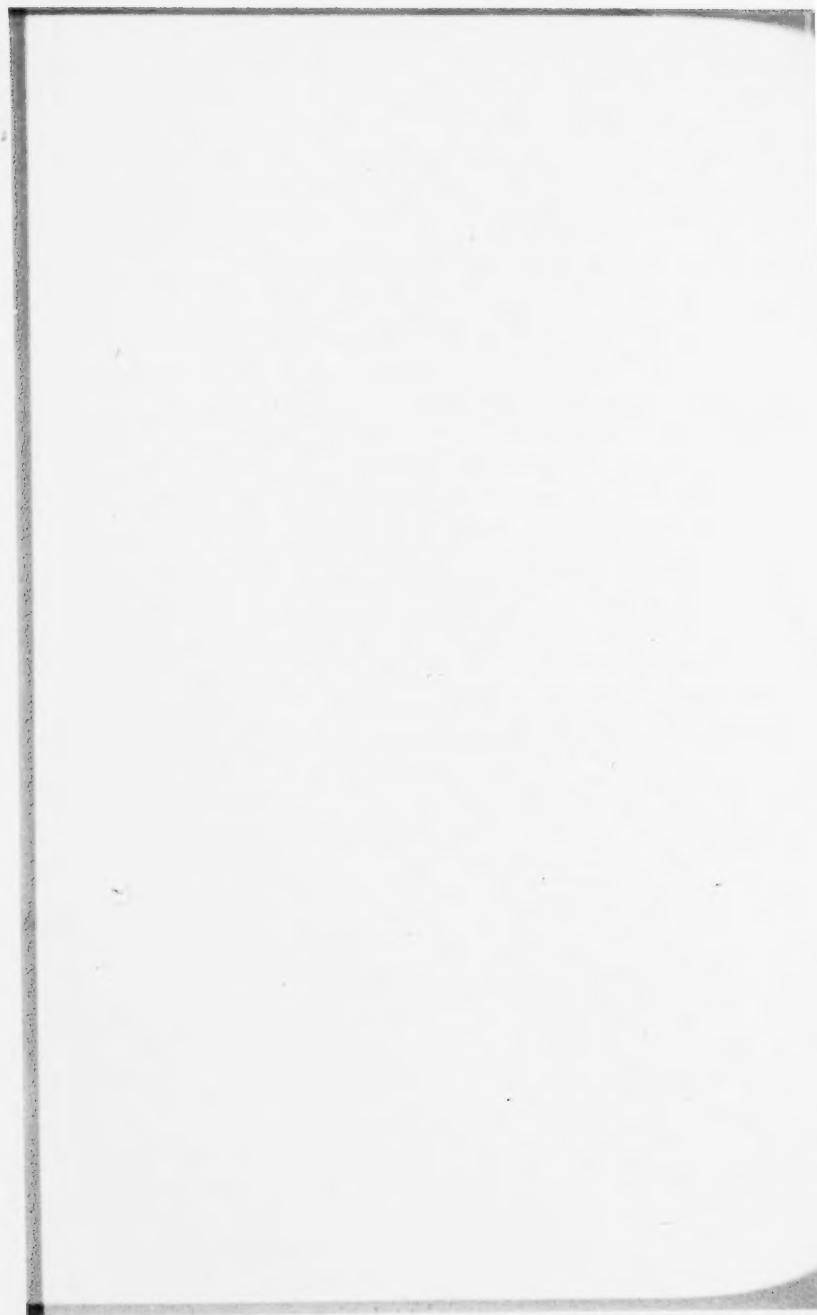
ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

BRIEF FOR RESPONDENTS

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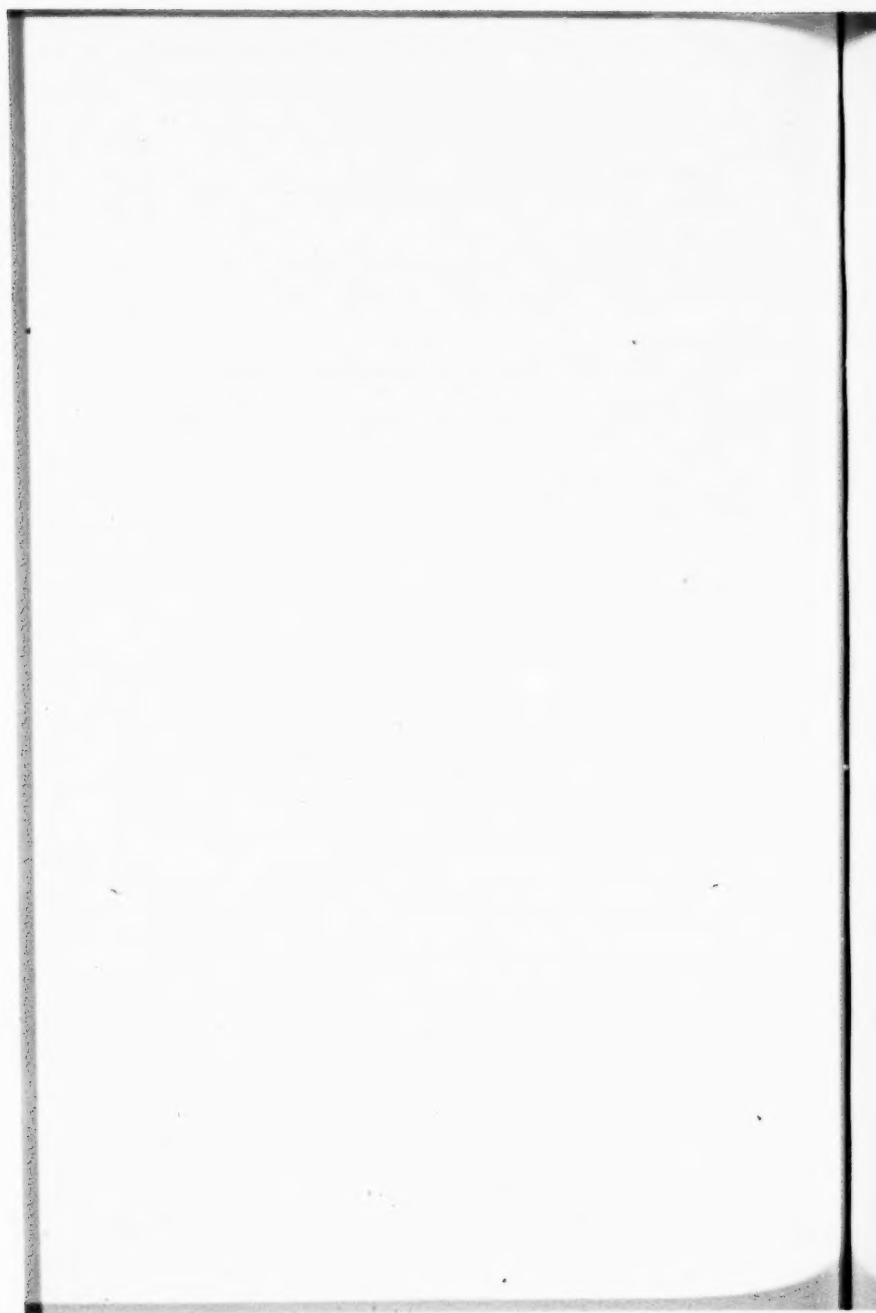
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*The provisions of Sections 1(b) and (c), 2(a)(29), 8, and 11(b)(1)(A)-(C) of the Public Utility Holding Company Act of 1935 are set forth in Appendix A to this brief.

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IN THE
Supreme Court of the United States

OCTOBER TERM, 1965

No. 636

SECURITIES AND EXCHANGE COMMISSION,
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NEW ENGLAND ELECTRIC SYSTEM ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

BRIEF FOR RESPONDENTS

STATUTE INVOLVED

The following sections of the Public Utility Holding Company Act of 1935 (the "Act"¹) are relevant and are set forth in Appendix A to this brief: Sections 1(b) and (c), the statement of purposes and policy of the Act; Sections 2(a)(29)(A) and (B), the applicable definitions of an "integrated public-utility system"; Section 8, the statement of the circumstances under which electric and gas utility companies serving the same territory may be acquired; and Section 11(b)(1)(A)-(C), the statement of the circumstances and conditions under which additional systems may be retained.

¹ 49 Stat. 803-38 (1935), as amended, 15 U.S.C. §79 (1964).

QUESTION PRESENTED FOR REVIEW

The Petitioner's² statement of the question presented seems to imply (i) that the meaning given in this case by the Securities and Exchange Commission to the phrase "substantial economies" is long standing and (ii) that the Commission's use of a test based on that meaning has been so extensive and consistent as to entitle it to special consideration by the courts, neither of which is accurate. The Respondents say that the question presented for review is:

Do the common words "substantial economies" as used in Clause (A) of Section 11(b)(1) of the Act have their normal meaning, that is, economies which in ordinary business judgment would be regarded as important or significant considering the business to which they relate, the meaning which, in connection with Section 2(a)(29)(B) of the Act in this case, the Commission tacitly assumed for them and the Petitioner now urges for them (Br. 25);³ or for the purposes of Section 11(b)(1)(A) alone are the words to be so construed that economies, however important, are not to be deemed substantial unless their loss would render the additional system incapable of sound and economical operation, a meaning which cannot be found in the words themselves and is not suggested by anything else in the Act?

STATEMENT OF THE CASE

The Petitioner's "Statement" (Br. 3-7) is inaccurate and incomplete in the following material respects:

² In this brief the Securities and Exchange Commission as represented by counsel before this Court and the court below is generally referred to as the "Petitioner"; and otherwise it is referred to as the "Commission".

³ "Significant savings" is the interpretation suggested by the Petitioner for purposes of Section 2(a)(29)(B) (Br. 25). (In this brief references to the Petitioner's brief on the merits are indicated by "Br."; references to the Petition for a Writ of Certiorari are indicated by "Pet.")

1. *The Issue Under Section 2(a)(29)(B).* The Petitioner states that after deciding that NEES' electric utility subsidiaries constituted a single integrated system under Section 2(a)(29)(A),

"... the Commission proceeded to hold further hearings, commencing May 18, 1960, on the question whether NEES' gas utility subsidiaries—which both NEES and the Commission's staff agreed to consider as constituting an 'integrated gas utility system' within the meaning of Section 2(a)(29)(B) [citations]—could be retained by NEES as an 'additional integrated public-utility system' under Section 11(b)(1)." Br. 4.

This implies, if it does not actually state, that the status of the NEES gas companies under Section 2(a)(29)(B) was not in issue at the hearings because the question had been settled before or at the beginning of the hearings and that for this reason the Commission did not have to enter any findings or conclusions or statement of reasons on this issue, as required by the Administrative Procedure Act.⁴ Thus the Petitioner states:

"The Commission did not in fact adjudicate the issue whether there were 'substantial economies' as used in Section 2(a)(29)(B) (which defines 'integrated gas system') but merely accepted its staff's concession that NEES's gas companies formed an integrated system as defined in that section, in order to expedite resolution of the critical question under Section 11." Br. 9.

The court below pointed out, however, that the Petitioner, as it recognized in its brief, was committed to the proposition that "fundamentally different meanings" must be given to the test of "substantial economies" under Sections 2(a)(29)(B) and 11(b)(1) (R. 1463).⁵ The court

⁴ See Section 8(b); 60 Stat. 242 (1946), 5 U.S.C. §1007(b) (1964).

⁵ The statement in the Petitioner's brief below was that "NEES had urged this position [that the NEES gas companies constitute a single integrated gas utility system] (R. 23-24, 46-47, 49), the Commission's Division of Corporate Regulation [the staff] agreed (R. 772) and the Commission *so held* (R. 1256)." (Emphasis added.)

stated that "it stands that the Commission feels that saving \$329,400 annually by integrating the eight gas companies is effectuating substantial economies under section [2(a)] (29)(B), but that \$1,098,600 annually is not substantial economies under Clause (A)." R. 1463 n. 8.⁶

In view of the confusion now created, the following relevant procedural facts should be noted:

(a) Whether the gas utility companies constituted one or more integrated systems under Section 2(a)(29)(B) was one of the principal issues in the case, and was recognized as such at the hearing. This issue was specifically included in the Commission's Order of Notice, which first stated the corresponding issue relating to the electric utility assets in exactly the same terms, and which also specified the issue under Section 11(b)(1) relating to the retention of any additional systems (R. 20; see also R. 40). There was no stipulation or agreement on the Section 2(a)(29)(B) issue, and at no time did either the staff or the Respondents even suggest disposing of it otherwise than through appropriate findings by the Commission in the regular way. The Respondents introduced extensive evidence relating to this issue (see, e.g., Res. Ex. 58A; R. 131, R. Vol. IV; R. 772-73),⁷ and at the hearings the staff insisted that determination of the issue under Section 2(a)(29)(B) was a necessary and orderly first step before decision of the issue under Section 11(b)(1) (R. 270-71, 767-68; see also 1263-64 n. 13). In fact, it was not until May, 1961, approximately one year after completion of the Respondents' affirmative case (not at the beginning of the hearings as the Petitioner's brief implies), that the Commission's staff for

⁶ In this brief the opinion of the court below is cited by reference to the page numbers of the opinion as reprinted and included in the record for this Court.

⁷ "R. Vol." refers to Volume IV, V or VI of the record which are the three volumes of the Ebaseco Report. They summarize the severance study made by Ebaseco Services, Inc., a firm qualified and experienced as experts in the utilities field. (See R. 1263, 1466, 1469.) The volumes were specified in the Respondents' cross-designation mailed for filing on December 30, 1965.

the first time disclosed its intention at an appropriate time to urge the Commission (R. 772) to make the determination that the NEES gas companies are a single integrated system. In its brief filed with the Commission after the hearings the staff did in fact urge the Commission to make that determination.

(b) The Ebasco Report and related exhibits and testimony which constituted the major portion of the Respondents' evidence showed that if the NEES gas companies were not a single integrated system and had to be operated independently of each other as well as independently of NEES, the annual loss of economies to the gas companies would be \$1,495,000 (See Res. Ex. 58A; R. 131, R. Vol. IV; Res. Ex. 59; R. 132, R. 1311). The evidence also showed that if the NEES gas companies were a single integrated system and could be operated together with each other but had to be divested by NEES, the annual loss of economies to the gas companies (as adjusted by the Commission) would be \$1,098,600 (R. 1264-65).⁸ On the basis that the gas companies were a single integrated system, the Commission refused to consider the larger amount on the ground that it was irrelevant (R. 1263-64 n. 13).

2. *The Commission's Handling of the Evidence.* The "Statement" says, "The Commission found that NEES's

⁸ The Ebasco Report showed that the annual loss of economies to the gas companies as a single system would be \$1,165,600 (Res. Ex. 91 p. 40; R. 564, R. Vol. VI p. 40). However, NEES also introduced evidence indicating that a change in service company charges authorized by the Commission in December, 1959 would have reduced the loss to the gas companies by \$67,000 if it had been in effect in 1958 (R. 364-79), and as noted above the Commission reduced the Ebasco estimate by this amount. Since the evidence otherwise related to 1958 (and to a limited extent 1959), the Commission's adjustment for a change effective beginning in 1960 was retroactive. However, it was minor and in itself might have been correct if the \$804,800 annual loss of economies which the evidence showed the electric companies would bear as a result of severance were to be correspondingly increased by \$67,000. (See R. 374-75. See also Res. Ex. 58B; R. 131, R. Vol. V; Res. Ex. 60; R. 133, R. 1313). The adjustment also raised the question whether one retroactive adjustment should be made without review and evaluation of other post-1958 developments.

estimate of the loss of economies following from divestiture was exaggerated . . ." (Br. 6). It follows with a lengthy footnote on this point (Br. 6 n. 5).

The "Statement" fails to point out that in its Findings and Opinion the Commission rejected the Ebasco estimate in its entirety for purposes of Section 11, not merely that it considered the evidence exaggerated (R. 1268). It also fails to point out that the Commission's handling and evaluation of the evidence were in issue before the First Circuit, which criticized the Commission's treatment of the evidence in numerous respects, and gave specific and careful instructions as to the correct methods to be followed by the Commission on remand (R. 1466-70).

3. *The Claim that the Test Now Urged is Long Standing.* As to the Commission's holding that \$1,098,600 annually was not "substantial economies" for the NEES gas companies the "Statement" says:

"In so holding, the Commission interpreted the relevant provision [Clause (A)], as it had done in prior divestment cases dating back more than twenty years, to require a showing that each 'additional system cannot be operated under separate ownership without the loss of economies so important as to cause a serious impairment of that system' (R. 1262-63). Under this test, the Commission ruled that, on the basis of the record before it, it was unable 'to find that the gas companies could not be soundly and economically operated independently of NEES****' (R. 1279)." Br. 7.

In its Petition for a Writ of Certiorari the Petitioner claimed much more. There it said that its test was the same as "it had applied in every other divestiture case under Section 11(b)(1)" (Pet. 5); that under the test "more than \$2,000,000,000 in utility assets have heretofore been divested on orders of the Commission" (Pet. 12); and that decisions of the Commission applying the test stretched uninterrupted through thirteen cited cases back to the first opinion on the question in 1942 (Pet. 12, 26a).

The present "Statement" suggests that the test now urged by the Petitioner is not the same as has been applied in all prior cases. The Respondents concur. The present test has been stated in no more than three of the thirteen cases cited in the Petition, involving less than 7½% of the total assets stated in the Petition to have been divested in relevant cases. In none of them does it appear to have been dispositive of the issue. (See pp. 45-48 and Appendix B to this brief.)

4. *Participation of the Massachusetts Department of Public Utilities.* The "Statement" contains no reference to the fact that the Massachusetts Department of Public Utilities (the "DPU"), which has jurisdiction over and regulates both gas and electric companies in Massachusetts, including all of the NEES gas companies, intervened as a party in the proceedings before the Commission and strongly opposed divestment of the gas companies. The Chairman of the DPU testified at length to the effect that in Massachusetts joint ownership or operation of gas and electric utilities is in no way contrary to public policy, that each case depends on its own circumstances, that 16 of 26 gas companies in Massachusetts are either combination gas and electric companies or under common control with electric companies, and that in the case of the NEES System there had been no suppression of one business in favor of the other. To the contrary, the DPU's experience with the System indicated that the gas and electric businesses had each been "aggressively developed and efficiently operated", as evidenced by the favorable rate of growth of each. The Chairman pointed out that in Massachusetts gas companies are in an "economic squeeze" because the cost of gas piped from the southwest is relatively high, and gas and fuel oil (oil being shipped by water is relatively cheap) compete intensely for home heating, the principal market for gas. The view of the DPU was that divestment would be adverse to the interests of the residents of Massa-

achusetts, and might necessitate increased gas rates; that it would not achieve any benefits but would result in the impairment of service and the loss of substantial economies; and that the loss would fall ultimately on the consumers (R. 41-42, 581-82, 587-94).

SUMMARY OF ARGUMENT

The Holding Company Act is a business regulatory statute written in simple and unambiguous language. It contains a clear and specific statement of its objectives and policy, and of the procedure for implementing them. It can be and should be applied without distortion of its provisions.

The specific issue in this case is the meaning of the phrase "substantial economies" as used in Section 11(b)(1)(A), which states one of the conditions for common control of more than one integrated public-utility system. The same phrase appears in a similar context in Section 2(a)(29)(B), as a requirement in the definition of an "integrated public-utility system" consisting of one or more gas companies.

In the proceedings before the Commission, the test of "substantial economies" in both Sections had to be applied to the eight NEES gas companies — under Section 2(a)(29)(B) in determining whether they could be held together with each other in a single integrated system, and under Section 11(b)(1)(A) in determining whether they could be held together with the NEES electric companies in a single holding company system. There was no question that all other requirements were met.

The evidence showed that operation of these gas companies together with each other resulted in economies of \$329,400 a year, and that operation of them together with the electric companies resulted in economies of \$1,098,600 a year. On this record, the Commission "conceded" that the eight gas companies constitute a single integrated

public-utility system, thereby recognizing and in effect holding that for them economies of \$329,400 are "substantial" under Section 2(a)(29)(B). It then held that economies for the same companies of \$1,098,600 are not "substantial" under Section 11(b)(1)(A). (See R. 1256, 1269).

In conceding the issue under Section 2(a)(29)(B) instead of entering the appropriate findings and conclusion, which would have directed its attention to the crucial inconsistency of its position, the Commission ignored the requirements of the Administrative Procedure Act and its own Order of Notice, reversed its well established practice, and acted inconsistently with its action on other parallel issues in the same case, all without explanation. Successive explanations have since been offered, but each of them involves further inconsistencies and other difficulties. This aspect of the case alone warrants remand to the Commission for further appropriate proceedings.

The Commission's treatment of the issue under Section 11(b)(1) is correspondingly defective. In its Findings and Opinion it stated so many standards under Clause (A) that the court below had difficulty in determining the actual basis of the decision. It concluded that the Commission had construed the phrase "substantial economies" to mean economies whose loss "would render impossible 'economical or efficient operation.' " R. 1458. The Petitioner now substitutes "sound and economical operation", although its brief states that in all prior cases the Commission has construed the phrase to mean economies the loss of which would "cause a serious impairment of that [the additional] system" (Br. 7), a materially different test.

The test of incapability of sound and economical operation represents a radical departure from the normal meaning of the phrase "substantial economies". It requires a different line of inquiry — an examination of the operational capability of the system after separation rather than

a comparison of operations before and after separation. It is a substitution of a different test which the Commission thinks is a better test but which cannot be found in the language of the Act.

The Petitioner's interpretation of the Act is evidently based on a preconceived assumption that the Act reflects an overriding federal policy against retention of more than one integrated public-utility system, and particularly against combination of gas and electric operations. It assumes this policy to be so strong as to require whatever distortion of specific provisions of the Act may be necessary to give it maximum effect. Thus a special meaning for the phrase "substantial economies" in Clause (A) of Section 11(b)(1) should be used, the Petitioner in effect argues, since otherwise that Section specifically permits combinations contrary to the assumed policy. Yet the same phrase in Section 2(a)(29)(B) can be given its normal meaning because "an entirely different policy" applies (Br. 25). The Respondents submit that the two Sections implement the same federal policy, which is carefully stated in Section 1 and is not the policy now urged by the Petitioner.

The Petitioner's argument is in striking contrast to the Commission's statement in its Findings and Opinion below (R. 1277) that it does not take the view that the Act expresses a federal policy against combined gas and electric operations as such; and it ignores strong evidence in the Act and its legislative history indicating that Congress intended to leave this question to the individual states, and limit its own concern to preventing the use of holding companies to circumvent state law and policy.

The legislative history, even as summarized by the Petitioner, is not helpful to its position. Congress not only refused to adopt the original bills embodying the harsh policy now favored by the Petitioner, but it took the precaution to forestall the Commission's achieving the same

result in administrative practice, as it is now attempting to do, by providing in Section 11(b)(1) that the Commission *shall* permit retention of additional systems if specific conditions are met.

The Petitioner's chief reliance is on a single remark of Senator Wheeler. The remark, however, was made after the Act was passed, by an opponent of the compromise embodied in it. Under these circumstances, as the court below suggested, the Senator's statement is entitled to little if any weight.

So far as the Act itself is concerned, the Petitioner cites two phrases taken out of context and completely misconstrues them (Br. 17, 20). If the entire subsections from which they were taken are examined, it is clear that the phrases do not relate to the question presented in this case.

The Petitioner's novel suggestion that its test should be favored because it permits giving effect to certain assumed competitive advantages is troublesome in several ways. The ability to take into account particular factors should have no bearing on the determination of what the test is. The test should first be determined from the Act itself, and that in turn determines what factors are relevant. Furthermore, no explanation is given as to how or why the competitive advantages or disadvantages of independence, can be given more meaningful consideration under the Commission's test than under the court's test. Just the reverse would appear to be true.

Finally, the Petitioner claims that the "Commission's longstanding interpretation is entitled to great deference." Br. 26. A crucial difficulty with this argument is that the various tests used by the Commission have been so loosely and inconsistently stated that it is difficult to interpret and evaluate the decisions of the Commission, or even of the reviewing courts. Any semblance of uniformity depends on treating as synonymous a variety of words and phrases

having a wide range of meanings, and it completely disappears when exact meanings are brought into focus.

Over the years and even in this case, the Commission has announced so many tests that it cannot be said that there is a specific Commission interpretation, long standing or otherwise. In only a small percentage of the Commission's decisions cited in its Petition for Certiorari has the Commission even stated the test now urged, and in none of them does it appear that this test was determinative of the issue.

In the courts, in earlier cases, the Second Circuit approved a test based on the importance of the economies, and the Court of Appeals for the District of Columbia in two subsequent cases appears to have followed this test or developed an intermediate test, but in neither was it determinative of the issue. The Fifth Circuit and (in the decision under review) the First Circuit have been the latest to consider the meaning of "substantial economies". Both have unanimously rejected the Commission's present test.

ARGUMENT

- I. THE HOLDING COMPANY ACT SETS FORTH IN CLEAR AND UNAMBIGUOUS LANGUAGE A COMPREHENSIVE, RATIONAL AND SELF-CONSISTENT PLAN OF REGULATION WHICH SHOULD BE ADMINISTERED ACCORDING TO ITS OWN TERMS.

The Act was designed to combat certain evils which had come about in connection with the abnormal and unregulated growth of holding companies in the public utility industry. Section 1 itemizes these evils and declares it to be the policy of the Act, "in accordance with which policy all the provisions of this title shall be interpreted, to meet the problems and eliminate the evils as enumerated in this section"

The subsequent sections provide the machinery for implementing the policy declared in Section 1 by bringing

each holding company system into conformity with specified standards and then regulating subsequent acquisitions and other activities in the manner and to the extent specifically provided.

1. The Act is a Business Regulatory Statute Using Well Understood Business Terms and its Meaning is Clear.

The Act was intended to effect extensive reorganization and continuing regulation of one of the major industries of the United States — “the rationalization of an industry”, to use former Commission Chairman Cary’s description.⁹ It directly affected business, and was written in simple everyday English words having well understood meanings in the business world. Where technical or special terms were required they were clearly defined. Legislative history makes it clear that the Act was intended to accomplish its purpose “without undue dislocation of investment or the loss of operating economies which flow from economically and geographically integrated public-utility systems.” (See pp. 25-26 below.)

The specific issue in this case is the meaning of the phrase “substantial economies,” as used in Section 11(b) (1)(A) of the Act. The Respondents say it means economies or savings which are important or significant in relation to the business involved, the connotation it would unquestionably have in ordinary business parlance. The Petitioner says it means the difference, however large or significant the amount may be, between capability and incapability of sound and economical independent operation, and it rephrases the test accordingly.

The Respondents contend that under established principles of statutory construction, the words of the Act are

⁹ Cary, *Administrative Agencies and the Securities and Exchange Commission*, 29 Law & Contemp. Prob. 653, 655 (1964).

presumed to have their normal and usual meanings, and specifically that identical words and phrases in closely related sections have the same meanings. Any departure from this principle would require compelling reasons, which as shown below (pp. 22-51), are not here present.

2. The Petitioner's Test under Section 11(b)(1)(A) is Outside Any Normal Meaning of the Language of the Statute and Involves Fatal Inconsistencies.

The Petitioner's test is not properly described as an interpretation or construction of the phrase "substantial economies". It is a substitute — a new standard which is materially different from the one adopted by Congress. The difference is not one of degree or strictness. It is a difference of kind.

The Petitioner's test requires an examination of the pro forma operation of the additional system as an independent system, and nothing more. If it cannot be proved by "clear and convincing evidence" (to use the Commission's phrase (R. 1262)) that the additional system is incapable of operating soundly and economically as an independent system, the Commission requires divestiture. Specifically what is meant by operating "soundly and economically" is not explained.¹⁰ But whatever the meaning, under the Petitioner's test the size and the importance of economies produced by existing combined operation, and the impact of the loss of those economies on consumers and investors, are irrelevant.

This result is contrary to the ordinary meaning and plain intent of the words "substantial economies". The word "economies" connotes savings, and there are no

¹⁰ The court below considered it a serious problem, which, however, it did not have to reach, that the Commission had failed to explain the standard "by which uneconomical operation is determined." R. 1458 n.5, R. 1461 n.7.

savings and hence no economies unless one situation, when compared with another, represents an improvement. "Substantial" is a relative term and in a legal context it means important or significant. Together the words convey a clear intent to require an evaluation of the importance or significance of the savings, the difference between the two situations, in light of all the circumstances.

The Petitioner's test is markedly inconsistent with the method of decision which the Commission has regularly used in other cases and apparently actually used in this case. (See R. 1282, Br. 34.) Here the Commission first measured the projected annual loss of economies in percentages of the NEES gas system's annual operating revenues, operating revenue deductions (excluding federal income taxes), gross income and net income before federal income taxes. It then compared these ratios in detail with similar ratios which it had used to test the substantiality of economies in certain earlier cases (R. 1269-70, 1282). Thus, it has appeared that the dollar size and related percentages of the losses went to the heart of the Findings and Opinion in this case as well as prior cases. The Petitioner's present position must mean that the ratio tests the Commission said it was using were not the real basis for its decision either in this case or the cited prior cases, and that the Commission was performing an essentially meaningless task.¹¹

If Congress had intended the result which the Petitioner now urges, it cannot be doubted that the expert draftsmen of the Act would have stated that intention clearly and

¹¹ In particular it should be noted that when it reviewed the evidence relating to NEES's estimate that rate increases of about \$1,500,000 would be necessary to avoid reduction in the earnings of the gas companies after severance, the Commission stated that the test of Section 11(b)(1) "is not based on reduction in earnings upon severance but solely upon whether the increased operating costs occasioned by severance are 'substantial'." R. 1273.

simply and indeed in fewer words. Clause (A) would have read:

*“(A) Each of such additional systems cannot be soundly and economically operated as an independent system.”*¹²

The requirements of Clauses (A), (B) and (C) of the *proviso* were not a mere legislative afterthought. As explained below in detail (see pp. 26-30), insertion of the *proviso* containing them was the key step in the passage of the Act. The three elements of the *proviso* — the limitation of operations to a single geographic area, the limitation on size and the test of economic justification — closely parallel, in both substance and form, the corresponding elements in the definitions of an integrated public-utility system set forth in Section 2(a)(29):

(i) *The geographic limitation:* The definitions in Section 2(a)(29) require that the operations of an integrated system be confined to a single area or region; Clause (B) of the *proviso* in Section 11(b)(1) requires that all of the additional systems be located “in one State [in which the principal system also operates¹³], or in adjoining States, or in a contiguous foreign country. . . .”

(ii) *The size limitation:* Both the definitions and Clause (C) of the *proviso* require in virtually identical terms that operations be “not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation”.

¹² This restatement of Clause (A) merely inserts the Petitioner's phrase “soundly and economically” and deletes the phrase actually used: “without the loss of substantial economies which can be secured by the retention of control by such holding company of such system”.

¹³ See *Engineers Pub. Serv. Co. v. SEC*, 138 F.2d 936, 941-43 (D.C. Cir. 1943), *cert. granted*, 322 U.S. 723 (1944), *dismissed as moot*, 332 U.S. 788 (1947).

(iii) *The economic justification*: Both the definitions and Clause (A) of the *proviso* require economic justification for continued combination. The definition of an integrated gas utility system in Section 2(a)(29)(B) does not require that the gas companies be physically interconnected or capable of physical interconnection, as such interconnection is not ordinarily beneficial, but it requires that "substantial economies" be effectuated by the gas companies being operated as a single coordinated system. Clause (A) of the *proviso* does not require physical interconnection or capability of physical interconnection as ordinarily such interconnection would not be feasible or beneficial, but it has the same requirement of "substantial economies". The definition of an integrated electric system in Section 2(a)(29)(A) is different and reflects technical advantages of interconnection available in electric operations: it requires physical interconnection (or capability of physical interconnection), and if that advantage is present, it requires only that the electric facilities normally may be economically operated as a single interconnected and coordinated system (not necessarily effect substantial economies).¹⁴

If, as the Petitioner now argues, capability of sound and economical operation is the test under Clause (A), an integrated gas utility system can never be retained as an additional system, whether the principal system is gas or electric. By definition the additional gas system must

¹⁴ The different standard for electric systems reflects the fact that by interconnection an electric system realizes economies and other benefits from joint use of generation facilities, power interchange, common dispatching and the like. With these technological advantages present, other economies, such as those resulting from common management and operation of non-interconnected properties, need not be "substantial" under the Act in order to justify the properties being allowed within one system. Thus despite the Petitioner's assertion to the contrary (Br. 26 n. 19), Congress did have a valid reason for imposing somewhat different standards for integration of an electric system as compared to a gas system.

consist of one or more gas companies so located and related that substantial economies may be effectuated by their being operated as a single system. To achieve those economies, the gas companies have to be *capable* of operating together economically. But if they are capable of operating together economically and so are an integrated system, they must in all cases be separated from the principal system because under the Petitioner's test the only additional system which may be retained is one which is *incapable* of sound and economical operation.

The geographic, size and economic tests of Sections 2(a)(29) and 11(b)(1) of the Act clearly should be construed consistently, as should in particular the phrase "substantial economies", which appears in both Sections. To do so is not only logical; it gives effect to the recognized rule of statutory construction that the same word or phrase appearing in different parts of a single statute is presumed to have the same meaning. *United States v. Cooper Corp.*, 312 U.S. 600, 607 (1941). This presumption should be particularly strong where, as here, the identical phrase ("substantial economies") not only appears in the two Sections but is incorporated by reference into Section 11(b)(1) through that Section's use of the defined term "integrated public-utility system". The draftsmen of the *proviso* in Section 11(b)(1) must have intended the words they used to have the same meaning there as in the definitions in Section 2(a)(29), as the most important use of the defined term "integrated public-utility system" in the Act unquestionably is in the application of Section 11(b)(1).

The Commission has recognized the rule of statutory construction stated in *Cooper*, and until this case has followed the rule when it compared corresponding provisions of the two Sections.¹⁵ It stated to this Court in its reply brief defending its interpretation of Clause (A) in *Engineers*:

¹⁵ See *North American Co.*, 11 S.E.C. 194, 214 (1942), *Cities Serv. Power & Light Co.*, 14 S.E.C. 28, 59 (1943), and *Commonwealth & Southern Corp.*, 26 S.E.C. 464, 488-89 (1947) (involving

"Indeed the relationship of dependence required for retention is particularly clear in the case of gas properties because the definition of a single integrated system in Section 2(a)(29)(B) applicable to gas properties substantially overlaps the standards of the (A) and (C) clauses of Section 11(b)(1), as they apply to additional systems. Thus it is clear that Congress intended the relationship between a single system and an additional system should be comparable to that between parts of the same system" ¹⁶

In an attempt to avoid the obvious inconsistencies, the Petitioner has first suggested that there was an agreement or stipulation on this issue (there was none), and alternatively suggests that the "Commission did not in fact adjudicate the issue" under Section 2(a)(29)(B), "but merely accepted its staff's concession" (Br. 4, 9). For this reason, the Petitioner argues, it is unfair to "tax the Commission with inconsistency" (Br. 23).

The established practice of the Commission under the Act, however, has not been to accept without question and Section 2(a)(29)(A) and clause (C) of Section 11(b)(1)). See also *Lone Star Gas Corp.*, 12 S.E.C. 286, 295 (1942), and *United Gas Improvement Co.*, 9 S.E.C. 52, 72 (1941). The Petitioner now takes a contrary view (Br. 23-24), and suggests that *Atlantic Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427 (1932), supports its view. That case, however, stands for the proposition that while there is a natural presumption that identical words appearing in the same statute are intended to have the same meaning, this presumption can be overcome when the words appear in two separate sections of a single statute in which Congress intended to exercise to the fullest extent two different constitutional powers, one of which is significantly more extensive than the other. In that situation, the Court stated that it would construe the two sections as if they were in different statutes and interpreted each section so as to give each maximum effect within the applicable constitutional provision despite the fact that to do so resulted in similar words in the two sections being dissimilarly construed. See 286 U.S. at 433-35.

¹⁶ Reply Brief for Commission pp. 19-20, *Engineers Pub. Serv. Co. v. SEC*, cert. granted, 322 U.S. 723 (1944), dismissed as moot, 332 U.S. 788 (1947).

take no responsibility for a staff concession. In prior cases, the Commission has considered that its statutory duties could not be properly carried out in this way. In appropriate cases the Commission has rejected the concurrence of its staff and the respondent involved and has reached a contrary conclusion. For example, in *Cities Service*, counsel for the Commission's staff and for Cities Service concurred in recommending that the Commission find certain non-utility businesses retainable under the standards of Section 11(b)(1). But the Commission reached a different result and stated, quite rightly, that:

"The concurrence of counsel, however, does not change our statutory duties. We may make the affirmative findings necessary to permit retention of a nonutility business only if the record shows that such retention satisfies the criteria of Section 11(b)(1)." *Cities Serv. Power & Light Co.*, 14 S.E.C. 28, 38 (1943).¹⁷

In other words, the Commission in its actual practice has recognized that, as noted by the court below, it "could not, either in good conscience or in law, accept as a concession a matter [that is, the gas companies' status under Section 2(a)(29)(B)] so fundamental, not only to the present proceedings, but for the future, if it were contrary to the fact" (R. 1463 n. 8). For that reason, even when the Commission has chosen to follow the recommendations of its staff on material issues under the Act, it has been careful to state its reasons and the necessary subsidiary findings. The Commission did just that both in its Findings and Opinion with respect to the electric phase of this case (where the staff did not oppose the Respondents' position), and in its Findings and Opinion with respect to the issues under Clauses (B) and (C) of Section 11(b)(1) in the gas phase of this case, where the staff also did not oppose the Respondents' position.¹⁸

¹⁷ See also *Middle West Corp.*, 15 S.E.C. 309, 329, 334 (1944); *Northern States Power Co.*, 36 S.E.C. 1, 5, 8-10 (1954).

¹⁸ See R. 27-38; *New England Elec. Sys.*, 38 S.E.C. 193 (1958); R. 769, 1260-61; see also *General Pub. Util. Corp.*, 32 S.E.C. 807, 814-15 (1951).

The Respondents do not disagree with the Petitioner's suggestion that it is desirable to narrow the issues and limit the evidence in administrative hearings through such procedures as responsive pleadings and pre-hearing conferences which could lead to appropriate stipulations. (See Br. 9, 2-23.) The problem is that here there was no stipulation, nor was the issue eliminated by the pleadings or by any pre-hearing conference. The Respondents had the burden of proof and introduced their evidence. The Commission had the duty to adjudicate, and under the Administrative Procedure Act to state the necessary findings and its reasons.¹⁹ Had the Commission met that duty, it would presumptively have recognized the inherent inconsistencies in its Findings and Opinion.²⁰

¹⁹ "All decisions (including initial, recommended, or tentative decisions) shall become part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) the appropriate rule, order, sanction, relief, or denial thereof." Section 8(b); 60 Stat. 242 (1946), 5 U.S.C. § 1007(b) (1964). The Petitioner cites a proposed amendment of the Administrative Procedure Act as being consistent with its claim of no adjudicatory responsibility (Br. 23 n.18), but even if that amendment were in effect, it would not help the Petitioner's case. Agreements or admissions still would be required to narrow the issues, and findings and conclusions and reasons would still be required in decisions. See Sections 2(d), 5 and 8(b) of S. 1336, 89th Cong., 1st Sess. (1965). The proposed legislation contemplates, with certain safeguards, agency delegation of adjudicatory functions (Section 8). Of course, that procedure was not available here. However, in 1962 special legislation was passed which authorized the Commission to delegate various duties but in this case the Commission in no way followed the prescribed procedure for delegation of its adjudicatory duties. See 76 Stat. 394 (1962), 15 U.S.C. § 78d-1 (1964); see also Rule 8(a) of the Commission's Rules of Practice. 17 C.F.R. § 201.8(a) (1964).

²⁰ Assuring careful and reasoned administrative consideration is one of the several well recognized "powerful" and "practical reasons" for the requirement of administrative findings. 2 Davis, *Administrative Law* §16.05 (1958). As this Court has noted,

II. NONE OF THE REASONS ADVANCED BY THE PETITIONER WARRANTS DISTORTING THE NORMAL MEANING OF THE ACT AND SUBSTITUTING A DIFFERENT STANDARD FOR THAT PRESCRIBED IN CLAUSE (A).

There is a natural presumption that the phrase "substantial economies" as used in the Act is intended to convey the normal and generally understood meaning of the words. In particular cases there may be need for interpretation as to the degree of substantiality intended and for this purpose resort to legislative history or other aids to interpretation may be appropriate. Under no circumstances, however, can this impose on language a meaning which is opposed to, or outside the widest scope of, its normal meaning. See *Addison v. Holly Hill Fruit Products, Inc.*, 322 U.S. 607, 616-618 (1944). The Respondents contend that this is exactly what the Petitioner is attempting to do in this case. For that purpose the Petitioner offers several reasons, not one of which has any validity.

1. Neither the Act Itself nor its Legislative History Supports the Petitioner's Test under Clause (A).

The Petitioner's case proceeds on the premise that under the Act, and Section 11(b)(1) in particular, the "primary aim" and "basic congressional purpose" are to "restrict a holding company's control over operating utility companies to one integrated public utility system," (Br. 8, 9), or to "limit holding companies to a single integrated sys-

"Expert discretion is the lifeblood of the administrative process, but 'unless we make the requirements for administrative action strict and demanding, *expertise*, the strength of modern government, can become a monster which rules with no practical limits on its discretion.' *New York v. United States*, 342 U.S. 882, 884 (dissenting opinion)." *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 167 (1962).

tem" (Br. 25). This idea is basic to the Petitioner's argument. Repeatedly the point is made: a requirement for one integrated system is said to be the "theme" of the Act (Br. 8); its "basic provision" (Br. 12); the "cardinal principle" (Br. 17); and the "basic congressional plan" (Br. 25).

This bold assumption colors the Petitioner's entire interpretation of the Act and is cited as justification for giving identical words radically different meanings in two closely related sections (Br. 9, 24) and for otherwise distorting the normal meaning. No valid support for it is offered by the Petitioner or is to be found either in the Act or in its legislative history. Yet the Court is asked to make the same assumption.

(a) *The Act*. Obviously the first and most important place to look for the policy and purposes of legislation is in the legislation itself. If the language is clear and unambiguous, there is normally no need to look further.

In the instant case the Act is unusually clear and specific in declaring its policy and specifying its purposes. They relate solely to the elimination of specific enumerated evils. Restrictions on holding companies are means to an end and not an end in themselves. The conditions and limitations under which they are to be applied are clearly stated in the Act and should be fairly and impartially construed. Section 11(b)(1) is not a statement of policy. It is one of several mechanical or operative provisions designed to implement and carry out the policy and purposes of the Act as detailed in Section 1.

The Petitioner contends that the use of the *proviso* in Section 11(b)(1) should be interpreted as indicating an intention to make a "narrow" exception (Br. 8, 12, 15, 17) which is to be strictly construed (Br. 13). This would be questionable under any circumstances and is wholly invalid

in the present context. The particular form of this section was dictated by its legislative history. The original bills in both branches provided for the complete elimination or severe limitation of all holding companies. After careful consideration and extensive public hearings and debate, a material modification took place. The *proviso* was used as an obvious and convenient mechanical method of carving out of the general limitation those situations in which additional systems could be retained consistently with the basic purposes of the Act. Without this modification the legislation would have failed of enactment. Those who voted for it had a right to assume that the language would be fairly interpreted and that the compromise would not be scuttled by distortion of that language.

The Petitioner criticizes the decision of the court below as overemphasizing the business or economic factor in its interpretation of this part of the Act. Actually this is the one factor to which Clause (A) relates. The major considerations of size and geographic distribution are covered by Clauses (B) and (C). A careful reading of the Act as a whole, and particularly of Section 1, can leave no doubt that economy in management and operation was of vital concern, meaning by this, net economy after giving effect to all plus and minus items.

(b) *Legislative History.* The enumeration of evils in Section 1(b) is based on the facts disclosed by various detailed reports, including particularly the reports of the Federal Trade Commission after what has been described as "the most thorough-going investigation of an American industry that has ever appeared",²¹ and, in addition, the so-called Splawn Report issued in 1934 and 1935 by the

²¹ Barnes, *The Economics of Public Utility Regulation* 71 n.8 (1942).

House Committee on Interstate and Foreign Commerce.²² After these reports, in March, 1935, President Roosevelt requested remedial legislation with respect to public-utility holding companies, and transmitted to Congress a report of the National Power Policy Committee. This report summarized the problem as follows:

"The growth of the holding-company systems has frequently been primarily dictated by promoters' dreams of far-flung power and bankers' schemes for security profits, and has often been attained with the great waste and disregard of public benefit which might be expected from such motives. Whole strings of companies with no particular relation to, and often essentially unconnected with, units in an existing system have been absorbed from time to time. The prices paid for additional units not only have been based upon inflated values but frequently have been run up out of reason by the rivalry of contending systems. Because this growth²³ has been actuated primarily by a desire for size and the power inherent in size, the controlling groups have in many instances done no more than pay lip service to the principle of building up a system as an integrated and economic whole, which might bring actual benefits to its component parts from related operations and unified management. Instead, they have too frequently given us massive, over-capitalized organizations of ever increasing complexity and steadily diminishing coordination and efficiency."²⁴

The National Power Policy Committee recommended:

"... Federal legislation regarding public-utility holding companies. Such legislation should eradicate disclosed abuses, prevent the use of the holding company and affiliated interests to obstruct State regulation of operating companies, and make possible the elimination of the

²² H.R. Rep. No. 827, 73d Cong., 2d Sess., Parts 1-6 (1933-35). See Commissioner Splawn's summary appearing in Hearings before the House Committee on Interstate and Foreign Commerce on H. R. 5423, 74th Cong., 1st Sess. 55-56 (1935).

²³ Not all growth of holding companies, as suggested by the Petitioner's partial quotation in its brief (Br. 13).

²⁴ H.R. Doc. No. 137, 74th Cong., 1st Sess. 5 (1935).

holding company where it serves no demonstrably useful and necessary purpose, without undue dislocation of investment or the loss of operating economies which flow from economically and geographically integrated public-utility systems."²⁵

Neither the President nor the National Power Policy Committee condemned holding companies as such, nor did they seek legislation which would eliminate the advantages of geographically and economically integrated systems. The President did vigorously condemn large and sprawling utility holding companies which performed no demonstrably useful or necessary function but rather existed simply as a means of achieving and maintaining financial control over operating public utilities.²⁶

Senate hearings followed and then in May, 1935, Senator Wheeler introduced the Senate version (S. 2796) of the bill and filed with it the report of the Senate Committee on Interstate Commerce, of which he was Chairman.²⁷ As had the earlier reports, the report of this committee made it clear that the principal purpose of the legislation was to restore regional integration, local management and effective local regulation. Under the Senate version as introduced by Senator Wheeler a regionally integrated public-utility system was exempt from the elimination provisions of Section 11. A regionally integrated combined gas and electric system, such as NEES, was entirely consistent with

²⁵ *Id.* at 8. It was recognized at the subsequent Senate hearings that in New England a holding company serves a particularly useful purpose because the states are small and the holding company is "necessary to hold together the desirable regional operating units". See the testimony of Thomas G. Corcoran, Hearings Before the Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess. 165, 203-04 (1935).

²⁶ H.R. Doc. No. 137, 74th Cong., 1st Sess. (1935).

²⁷ S. 2796; S. Rep. No. 621, 74th Cong., 1st Sess. (1935). S. 2796 extensively revised the form but preserved the substance of S. 1725 and H.R. 5423, the original bills, which had been filed with the Senate and House in February, 1935.

the purposes of the legislation, not an evil condemned by it:²⁸

"An operating system whose management is confined in its interest, its energies, and its profits to the needs, the problems, and the service of one regional community is likely to serve that community better, to confine itself to the operating business, to be amenable to local regulation, to be attuned and responsible to the fair demands of the public, and more often to get along with the public to mutual advantage. A regional system, with each company confined to consolidation of its own territory, will offer no chance for the territorial raids at fantastic prices with which for 15 years competing holding company systems disturbed the operating business. Essentially local systems will tend to operate utilities rather than to play with high finance; and essentially local enterprise is far less likely to accumulate a disproportionate amount of political and economic power." S. Rep. No. 621, 74th Cong., 1st Sess. 12 (1935).

The Senate version of Section 11(b)(1) (S. 2796) was the strict version. It would have limited all registered holding companies to a single "geographically and economically integrated public-utility system". Such a single system, however, could have included both electric and gas properties.²⁹

²⁸ See Representative Eicher's comment that, "... essentially intrastate holding companies, like Niagara-Hudson and Pacific Gas & Electric, and holding companies necessary for the operations of an interstate but regionally integrated public-utility system, like New England Power Association [the former name of NEES], are exempted from the elimination provisions of section 11 of the Senate bill" H.R. Rep. No. 1318, 74th Cong., 1st Sess. 49 (1935).

²⁹ S. 2796 § 11(b)(1)-(3), as passed by Senate and sent to House June 13, 1935. See United Gas Improvement Co., 9 S.E.C. 52, 82-83 (1941); Hearings before the Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess. 494-500, 515, 626-30 (1935). This was also true under the bill as initially introduced in both the Senate and the House. See S. 1725 § 11(b)(2) and (4) (1935) and H.R. 5423 § 10(b)(2) and (4) (1935).

The House opposed the Senate's strict version of Section 11(b)(1). It therefore amended S. 2796 to permit a holding company to control any number of integrated public-utility systems which the Commission might find could be included in such holding company system "consistently with the public interest."³⁰

The House version of S. 2796 contained, for the first time, a definition of an integrated public-utility system which, as ultimately interpreted,³¹ limited such a system to either electric or gas business. However, under the House version, the Commission would have been required to permit a holding company to control as many integrated gas and electric systems as the Commission might find could be retained "consistently with the public interest."³²

As neither the House nor the Senate would accept the other's version of S. 2796, a joint conference committee was appointed and in due course a compromise was reached. In the compromise the Senate withdrew its objection to the House version of S. 2796 subject to inclusion of an amendment deleting the general test of public interest for the retention of more than one system and substituting the more specific geographic, size and economic standards set forth in the ABC tests of Section 11(b)(1). As so amended, Section 11(b)(1) would require the Commission to permit a registered holding company to retain one or more additional systems together with the principal system if these standards were met. The Section made no distinction between gas and electric properties.³³

³⁰ S. 2796 § 11(b), as passed by the House of Representatives and sent to the Senate July 9, 1935.

³¹ See American Water Works & Elec. Co., 2 S.E.C. 972, 983 (1937) (single system can include both gas and electric properties); Columbia Gas & Elec. Corp., 8 S.E.C. 443, 462-63 (1941), and United Gas Improvement Co., 9 S.E.C. 52, 77-83 (1941) (single system cannot include both gas and electric properties).

³² S. 2796 §§ 2(a)(27), 11(b), as passed by House and sent to Senate July 9, 1935. See United Gas Improvement Co., *supra* at 80-81 (1941).

³³ See United Gas Improvement Co., *supra*.

The ABC tests were introduced in light of the concern expressed by Senator Wheeler and others over what was considered to be an overly broad delegation of congressional power in the House version.³⁴ The Managers on the part of the House reported:

"It may be observed that section 11(b) in both the Senate bill and the House amendment contemplates the reestablishment of the advantages of localized management in the operating utility industry and the consequently necessary breakdown of the control of large holding companies over geographically scattered operating utility companies. Section 11 of both bills, therefore, authorizes the Securities and Exchange Commission to require a holding company to limit its control over operating utility companies to one integrated public-utility system.

"To this limitation the Senate bill, like the House bill, allows in section 3 exceptions in the case of a holding company whose interests are essentially intrastate and in the case of a holding company whose interests are essentially foreign. The House amendment grants what amounts to a further exception when the Commission finds that more than one integrated system may be included in a holding-company system 'consistently with the public interest'.

"The conference substitute meets the House desire to provide for further flexibility by the statement of additional definite and concrete circumstances under which exception should be made to the form of one integrated system. Definite exceptions not only provide a satisfactory constitutional standard but also an effective standard for the guidance of both the Securities and Exchange Commission and those holding companies which wish voluntarily to comply with Congressional policy.

"The substitute, therefore, makes provision to meet the situation where a holding company can show a

³⁴ See 79 Cong. Rec. 10842 (1935) (remarks of Senator Wheeler); H.R. Rep. No. 1318, 74th Cong., 1st Sess. 45 (1935) (additional views of Representative Eicher); 79 Cong. Rec. 10838 (1935), (letter of Joseph P. Kennedy, then Chairman of the Commission).

real economic need on the part of additional integrated systems for permitting the holding company to keep these additional systems under localized management with a principal integrated system. Under such circumstances the Commission is directed to permit the holding company to retain control of such additional systems, even though not physically integrated with the principal system, provided all such integrated systems are located in the same State or States, or in adjoining States or a contiguous foreign country.³⁵

The Petitioner argues in effect that the Managers' reference to a "real economic need" means a need so overwhelming that without the economies of combination the additional system would be incapable of economic operation. This, of course, stretches the Managers' actual words (and the words of the Act to which they were referring) far beyond their normal meaning. It wholly disregards the context in which the Managers spoke, that is, the stated objectives of the Act and the broad economic reform which the President and the Congress contemplated. Given that context, it is inconceivable that the Managers could have meant to imply what the Petitioner now urges. The Managers were clearly persuaded that the desire of the House for flexibility was met and that a meaningful standard satisfactory to the Senate and the House had been included. The Petitioner's argument gives no effect to these considerations. In fact the construction urged by the Petitioner would in the case of combined gas and electric operation produce even less flexibility than the original Senate version.

The Petitioner relies heavily on a comment made later by Senator Wheeler, who was one of the Senate conferees and Chairman of the Senate Committee on Interstate Com-

³⁵ H.R. Rep. No. 1903, 74th Cong., 1st Sess. 70, 71 (1935). Parts of this language are quoted in the Petitioner's brief. Words and sentences, however, are omitted with a resulting distortion of the emphasis and meaning intended by the Managers (Br. 15-16).

merce (See Br. 16.) Senator Wheeler was by no means impartial. He had championed the Senate version of Section 11 and was dissatisfied with the compromise.³⁶ The statement cited by the Petitioner was made by the Senator *after* passage of the Act by both branches of Congress. It was as follows:

"After considerable discussion the Senate conferees concluded that the furthest concession they could make would be to permit the Commission to allow a holding company to control more than one integrated system if the additional systems were in the same region as the principal system and were so small that they were incapable of independent economical operation. . . ." 79 Cong. Rec. 14479 (1935).

The Respondents submit that this statement, coming after enactment, was not part of the legislative history at all. The best reason for considering it as evidence of the legislative intent, its impact on the voting, is missing.³⁷ Moreover, this Court has "often cautioned against the danger, when interpreting a statute, of reliance upon the views of

³⁶ See 79 Cong. Rec. 1525, 4902-04 (1935). As stated by Senator Norris before passage of the final bill but following receipt of the conference report:

"I am firmly of the belief, however, that this is a conference report which the Senator [Wheeler] was induced to sign because he realized that he couldn't get any better. I am confident that he is not satisfied with it . . ." 79 Cong. Rec. 14470 (1935).

Senator Wheeler spoke immediately after Senator Norris. He in no way refuted Senator Norris' judgment as to his own dissatisfaction with the conference report. He differed with Senator Norris' remarks only with respect to whether or not there could be an intermediate holding company in a holding company system. 79 Cong. Rec. 14470 (1935).

³⁷ See *United States v. United Mine Workers*, 330 U.S. 258, 279-80 (1947); *Duplex Printing Press Co. v. Deering*, 254 U.S. 443, 477 (1921); cf. *State Wholesale Grocers v. Great Atl. & Pac. Tea Co.*, 154 F. Supp. 471, 485 (N.D. Ill. 1957), *rev'd on other grounds*, 258 F.2d 831 (7th Cir. 1958), *cert. denied*, 358 U.S. 947 (1959).

its legislative opponents." *NLRB v. Fruit & Vegetable Packers*, 377 U.S. 58, 66 (1964). Coming after the voting and from an opponent of the compromise embodied in the Act, the statement is suspect.³⁸ It should be considered as no more than an attempt on the Senator's part to salvage what he could from the compromise version of Section 11(b)(1).³⁹

In sum, it was not a primary aim of the Act to limit each holding company system to a single integrated system. That was just what the legislative compromise rejected. The purpose was economic reform—the elimination of the evils listed in Section 1(b) and, through Section 11(b)(1), as this Court has said, to require divestment of "geographically and economically unrelated properties" in order to rejuvenate local management and restore effective state regulation:

"Congress expressed in §1(c) its determination 'to compel the simplification of public-utility holding-company systems and the elimination therefrom of properties detrimental to the proper functioning of such systems,' thus eliminating the evil complained of in § 1(b)(4) and ameliorating the conditions specified in the other subsections of § 1(b). It accordingly adopted

³⁸ Moreover, it is inaccurate, as it states the test of Clause (A) in terms of size, and further because it indicates that the *proviso* was permissive while in fact the *proviso* requires the Commission to permit retention if the tests are met. The Petitioner also emphasizes that the statement was made "before the bill was enrolled" (Br. 16). Since enrollment is a ministerial act involving the printing of the bill and its signature by the Clerk of the House and the Secretary of the Senate (see 61 Stat. 634-35 (1947), 1 U.S.C. §106 (1964)), the significance of the Petitioner's point seems obscure. It is perhaps more relevant to note that the Congressional Record after enactment makes it clear that the debate in the Senate had in fact moved on to completely different subjects unrelated to the Act well before Senator Wheeler's statement. See 79 Cong. Rec. 14473-79 (1935).

³⁹ See *United States v. Calamaro*, 354 U.S. 351, 357-58 n. 9 (1957); *Mastro Plastics Corp. v. NLRB*, 350 U.S. 270, 288 (1956).

§ 11(b)(1), whereby holding companies are compelled to integrate and coordinate their systems and to divest themselves of security holdings of geographically and economically unrelated properties. In this way Congress hoped to rejuvenate local utility management and to restore effective state regulation, both of which had been seriously impaired by the existence and practices of nation-wide holding company systems." *North American Co. v. SEC*, 327 U.S. 686, 704 (1946). See also *Electric Bond & Share Co. v. SEC*, 303 U.S. 419, 436 (1938).

2. Neither the Act Itself nor its Legislative History Supports the Petitioner's Assumption of a Federal Policy against Common Control of Gas and Electric Utilities.

(a) *The Act*. Nothing in the Act states or implies that Congress considered combined gas and electric utility operation an evil to be eliminated. To the contrary, all the indications are that the policy with respect to such a combination was intended to be left to the states to determine. Federal regulation was to extend only to the point necessary to assure that the state policy was not circumvented.⁴⁰ This the Commission recognized in its Findings and Opinion below when it said,

⁴⁰ Report of National Power Policy Committee, H.R. Doc. No. 137, 74th Cong., 1st Sess. 10 (1935); S. Rep. No. 621, 74th Cong., 1st Sess. 29-30, 59 (1935); H.R. Rep. No. 1318, 74th Cong., 1st Sess. 14-15 (1935); Hearings before the House Committee on Interstate and Foreign Commerce on H.R. 5423, 74th Cong., 1st Sess. 291, 330, 344 (1935) (Analysis inserted by Chairman Rayburn); R. 1277, 1464 n. 10 and 1470-71 (the Commission's Findings and Opinion, and the opinion of the First Circuit, in this proceeding). Also see *Northern States Power Co.*, 36 S.E.C. 1, 7, 8 (1954); Res. Ex. 57; R. 85, 1310 (listing the 25 largest combination gas and electric systems in the United States of which NEES is 15th in size). The concern of Congress basically was with "utility plants scattered over many States and totally unconnected in operation" (emphasis added)—not with distribution by one utility in any given community of both gas and electricity. Report of National Power Policy Committee, *supra*, 4; Hearings before Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess. 460-62 (1935).

"We do not take the view that the Act expresses a federal policy against combined gas and electric operations as such." R. 1277.⁴¹

The Petitioner now in effect attempts to minimize this statement and approaches the subject indirectly by taking excerpts out of context and placing them in juxtaposition so as to imply competition between gas and electricity as an objective of the Act or as presumptively desirable. For example, the Petitioner says that under the Act:

"Retention was permissible if it resulted in 'the integration and coordination of related operating properties' [citing Section 1(b)(4)] under a management single-mindedly devoted to the development of those related properties in 'free and independent competition' [citing Section 1(b)(2) of the Act and parts of the Petitioner's brief]." Br. 17.⁴²

The first requirement cited by the Petitioner, the "integration and coordination of related operating properties", is taken completely out of context and relevant words are omitted. Section 1(b)(4) states that the public interest and the interests of investors and consumers are or may be adversely affected —

"(4) when the growth and extension of holding companies bears no relation to economy of management and operation or the integration and coordination of related operating properties;" (The words omitted by the Petitioner have been italicized.)

⁴¹ Before the First Circuit, counsel for the Petitioner sought to minimize this statement. The First Circuit noted that, "Counsel's attempt to explain this away [referring to the Commission's statement quoted above] by saying that the Commission's phrase 'as such' meant simply that the Commission was disclaiming interest when the interstate holding company form was not employed, attributes to the Commission the banality that it was not claiming jurisdiction in those cases where obviously it does not have it. We believe the Commission was saying something more than this, and that counsel, in the brief, is merely seeking some new ground to support the Commission's result." R. 1471.

⁴² Similar partial quotations out of context also occur at Br. 20.

The First Circuit was disturbed by the omission of precisely the same key words in quoting from Section 1(b)(4) (R. 1461-62). The omitted words, "economy of management and operation", clearly apply to the economic test under Clause (A), and the NEES System clearly meets that requirement.

The Petitioner's second requirement, "management single-mindedly devoted to the development of those related properties in 'free and independent competition'", can be found nowhere in the Act. The words "free and independent competition" in Section 1(b)(2) cited by the Petitioner are used in a completely different context. In that Section Congress stated that the public interest and the interests of investors and consumers are or may be adversely affected—

"(2) when subsidiary public-utility companies are subjected to excessive charges for services, construction work, equipment, and materials, or enter into transactions in which evils result from an absence of arm's-length bargaining or from restraint of free and independent competition; when service, management, construction, and other contracts involve the allocation of charges among subsidiary public-utility companies in different States so as to present problems of regulation which cannot be dealt with effectively by the States;"

The Act includes, in Sections 12 and 13,⁴³ comprehensive provisions for the regulation of those non-competitive, less than arm's-length transactions from which evils could result and which were within the concern of Congress: transactions involving such matters as sales of securities and assets in the absence of competitive conditions, service, management, construction and other similar contracts and transactions which if made within a holding company system or with its affiliates might without justification restrain competition in those areas and increase

⁴³ 49 Stat. 823-27 (1935), 15 U.S.C. §§ 791, 79m (1964).

charges to operating companies, in turn increasing the basis for their rates to consumers and reducing the return to investors. It is with such matters that Section 1(b)(2) is concerned.⁴⁴

The Report filed by Senator Wheeler which accompanied S. 2796 stated detailed findings of which the following relate to non-competitive conditions and so provide the basis for that section of the bill which is now Section 1(b)(2) of the Act:

“(7) subsidiary public-utility companies are often subjected to excessive charges for services, construction work, equipment, and materials to the detriment of investors and consumers; (8) subsidiary public-utility companies often enter into transactions with affiliates in which the absence of arm’s-length bargaining operates to the detriment of investors and consumers; (9) control of subsidiary public-utility companies throughout the United States has often been used to secure to holding companies, their affiliates, and subsidiary construction companies construction work for public-utility companies in restraint of free and independent competition in that field; (10) service, management, construction, and other contracts involve the allocation of charges among subsidiary public-utility companies in different States and present problems of regulation which cannot be dealt with effectively by the States without the assistance of the Federal Government; (11) control of subsidiary public-utility companies materially affects the accounting practices and rate, dividend, and other policies of such companies,

⁴⁴ The rules of the Commission adopted under the Act to implement the regulation of transactions of this kind include Rule 50 (requiring competitive bidding in securities underwritings), Rule 70 (b)(2) (forbidding issue of securities to certain financial institutions with which the issuer has an interlocking officer or director), Rules 43, 44 and 45 (implementing Sections 12(d), (f) and (g) of the Act calling for maintenance of competitive conditions with respect to sales of securities and utility assets and intra-system transactions) and Rules 80-95 (regulating service, sales and construction contracts). 17 C.F.R. §§ 250.50, 250.70(b)(2), 250.43-45, 250.80-95 (1964).

thereby in many instances complicating and obstructing State regulation of such subsidiary companies;'⁴⁵

(b) *Legislative History of Section 8.* Section 8 of the Act, dealing with acquisitions, is highly relevant on the question of federal and state policy concerning common control of gas and electric utility services. In Section 8, Congress provided that where state law prohibits or requires approval of combined gas and electric operation, a holding company may not acquire gas and electric companies serving the same territory without express approval of the state commission. Sections 9 and 10 impose additional conditions on acquisitions, but Section 9(b)(1) specifically exempts an acquisition of utility assets by a public-utility company if approved by state authority. The Act thus indicates a broad federal deference to state policy with respect to combination of gas and electric operations and an intent to assure the effectiveness of that policy and not, as happened here, to override and disregard the expressed position of the state regulatory body based on state public policy and the particular local conditions.⁴⁶ Indeed,

⁴⁵ S. Rep. No. 621, 74th Cong., 1st Sess. 21-22 (1935). The Petitioner cites to the contrary a statement by Senator Couzens indicating his concern with competition between electric lighting and gas (Br. 35 n. 25). It seems significant (i) that this is the only such reference in the entire Senate hearing, (ii) that the Mr. Benton with whom Senator Couzens was arguing was the General Solicitor of the National Association of Railroad and Utilities Commissioners and (iii) that Mr. Benton promptly proceeded to refute Senator Couzens' approach to this issue. Hearings Before the Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess. 746, 783 (1935).

⁴⁶ Notwithstanding the DPU's unequivocal position in favor of NEES' retention of its gas companies, the Petitioner seems to suggest that Massachusetts policy is not as stated by the DPU and for this purpose cites excerpts from the DPU decisions in *Cambridge Gas and Lynn Gas & Electric* (Br. 36 n. 25). The quotation from *Cambridge Gas* dates from 1930, and omits significant language which shows that the principal reason for refusing approval of the merger of the Cambridge Gas and the Cambridge Electric companies was to preserve for the City of Cam-

the Report of the House Committee on Interstate and Foreign Commerce which accompanied the House version of S. 2796 stated with respect to Section 8(b), which constitutes the entire Section 8 in the Act as passed:

"Subsection (b) prevents any company in a system from taking any step which would result in the [sic] bringing into the same holding company system a gas-utility company or an electric-utility company serving substantially the same territory as that served by any utility company in the system, where State law prevents the combination of the gas utility and electric utility in the same company. This subsection is concerned with competition in the field of distribution of gas and electric energy—a field which is essentially a question of State policy, but becomes the proper subject of Federal action where the extra-State device of a holding company is used to circumvent State policy."⁴⁷

In the early versions of the Act, Section 8 made it unlawful after January 1, 1937 for a registered holding company, without state approval, to have an interest in an electric company and a gas company serving substantially the same territory, if the applicable state law prevented or required authorization of the ownership or operation of the gas and electric properties by a single company.⁴⁸

bridge the right to take over either the gas or electric business without the other. Cambridge Gas Light Co., P.U.R. 1930D 263, 265 (Mass. DPU 1930). Presumably, merger of the two Cambridge companies has not been sought again since they enjoy the economies of joint operation under the common control of New England Gas & Electric Association which is now exempt from the Act because its operation has been brought entirely within Massachusetts. The quotation from *Lynn Gas & Electric* does not reflect the result in that case and the evidence in this case (R. 71-73, 110, 144); namely that the transaction there approved by the DPU was a rearrangement continuing the two businesses *under the same NEES ownership*—the very arrangement which the Petitioner in this case has attempted to break up. *Lynn Gas & Elec. Co.*, 31 P.U.R. 3d 209 (Mass. DPU 1959).

⁴⁷ H.R. Rep. No. 1318, 74th Cong., 1st Sess. 14 (1935).

⁴⁸ S. 1725 § 8(d) (1935) and H.R. 5423 § 7(d) (1935).

This provision was removed from Section 8 by the Senate Committee on Interstate Commerce with the idea that a forced break-up of such combinations should be effected under the orderly procedures of Section 11 rather than by an inflexible, flat prohibition within a fixed time under Section 8.⁴⁹ In considering the implications of Section 8 and its history generally, and this change in particular, it is vitally important to keep in mind that Section 8 in all stages of its development related solely to prevention of the use of interstate holding company systems to circumvent state policy, that is, to accomplish indirectly what state law prevents being done directly. The Petitioner's discussion of the topic and use of quotations relating to it (Br. 35-36) seem to overlook this important fact completely.

The Senate Report, which was filed with S. 2796 by Senator Wheeler and which had his entire support, included the same comment as the House report:

"This subsection [in substance the present Section 8] is concerned with competition in the field of distribution of gas and electric energy — a field which is essentially a question of State policy, but becomes the proper subject of Federal action where the extra-State device of a holding company is used to circumvent State policy." S. Rep. No. 621, 74th Cong., 1st Sess. 29-30 (1935).

3. Permitting "Meaningful Consideration of the Competitive Advantages" of Separate Operation of the Gas Companies is not a Reason for Favoring the Petitioner's Test.

(a) *The Competition Factor.* The Petitioner explains that its test under Clause (A) really turns "on something more than mere size [of the economies to be lost] measured in dollars or percentages" (Br. 34, emphasis added), and

⁴⁹ S. 2796, introduced May 9, 1935 by Chairman Wheeler of the Senate Committee on Interstate Commerce, § 8(d). See S. Rep. No. 621, 74th Cong., 1st Sess. 4, 7-8 (1935).

that the requirement of "something more" enables the Commission, where a combination of gas and electric utilities is being examined, to take into account the competitive advantages of eliminating common control, without being required to state even approximately what weight it attributes to them or by what standard it measures them. The argument proceeds on the basis of their being "very real, although immeasurable, substantial competitive advantages" (Br. 38). It is another expression of the Petitioner's false assumption that the Act embodies a federal policy against combined gas and electric operations, discussed at pp. 33-39 above.

Respondents and the court below do not quarrel with the Petitioner's point that the competitive factor is relevant and should be considered in testing the substantiality of the economies to be lost upon severance. This obviously is a part of the business judgment which the court below called for (R. 1464, 1469-70), but the total competitive situation, not merely the competition between gas and electricity, must be examined. It was for this reason that the Respondents introduced extensive evidence concerning the total competitive situation of the NEES gas companies, with respect to both the competition between gas and electricity and, in Massachusetts, the far more significant competition between gas and fuel oil.

As to the competition between gas and electricity, the evidence, which was uncontroverted, showed that the operation of the gas companies as a part of the NEES System under the supervision of the separate Gas Division provides aggressive promotion and high standards of service under competent management devoted exclusively to the gas business, in no way suppressing or hampering competition between gas and electricity or favoring either to the detriment of the other.⁵⁰ The chairman of the DPU testi-

⁵⁰ R. 66-67, 71-74, 138-39, 170-82, 191-98, 206-09, 220-30, 307-15, 393-401, 501-02, 506-07, 511-12, 517-18.

fied to the same effect (R. 589, 594). As to the competition between gas and fuel oil, the evidence showed severe competition for the space heating market, which is the principal market for gas (R. 232, 715), and in view of that competition, the particularly adverse impact that rate increases resulting from the loss of economies would have upon the overall competitive position of the gas companies (R. 221-22, 227-28, 232-39, 721-23). The Chairman of the Massachusetts DPU was quite explicit on these points. He testified to the serious concern of his Department over the loss of what he considered very substantial economies and resulting increases in rates to consumers which, in his judgment, would have an adverse impact upon the gas companies' ability to compete with oil (R. 589, 590-92).

The Petitioner nonetheless discusses in broad and generalized terms the problems that have arisen in prior divestment cases involving gas and electric companies, and notes that various potential abuses can result from combined operation (Br. 34-38). However, in this case, the evidence showed that no such abuses have resulted, and that for years NEES has taken effective measures through separate management to prevent their occurring⁵¹; and thus the Petitioner can do no more than note that the "Commission recognized that joint control by NEES . . . *could well* lead to the favoring of one kind of service to the disadvantage of users of the other." (Br. 37. Emphasis added.)

The Petitioner's position seems to be that if independent operation is possible, the Commission should be free to conclude that the gas companies and their customers should bear the burden of the loss of proven significant economies, in order to protect them against what are no more than potential future abuses, and that the test under Clause (A) should be such as to permit that result. Divestiture would be ordered now on no firmer ground than the hope that

⁵¹ See n. 50 above.

competitive advantages, which are necessarily purely speculative, will be sufficient to overcome not only the loss of proven economies, but also, in this case, significant disadvantages in the primary competition of gas with oil. There is no need for such a decision now as the Commission will have continuing jurisdiction to correct abuses should they arise in the future.

If the Petitioner's rationale is accepted, the Commission will have a "carte blanche." The burden of proof can never be met. Even if, as was the case here, the only evidence in the record shows that there will be a significant loss of economies, and, in addition, shows not only that no benefits will result from separation but further that significant competitive disadvantages will result, the Commission nonetheless will be free to assume the contrary and give unlimited weight to this factor without any standard of measurement. The First Circuit did not question the Commission's right to consider competitive advantages, but it did indicate that at least a finding of approximate financial benefit should be made, particularly "where the evidence shows that NEES has made a special effort to obtain for its gas system many of the benefits of independence." R. 1470. This certainly is the minimum that a reviewing court can require in order to assure that the administrative action is not arbitrary. If Petitioner is right, judicial review as a practical matter will be meaningless, and the Commission will have at least as much latitude as it would have had under the House version of S. 2796, which the then Chairman of the Commission described as too broad a delegation of power.⁵²

(b) *Choice of tests.* The justification for the test urged by the Petitioner would be relevant only in cases involving combinations of gas and electric systems. It is meaningless when an additional gas system is sought to be retained with a principal gas system, or an additional elec-

⁵² Letter of Joseph P. Kennedy, 79 Cong. Rec. 10838 (1935).

tric system is sought to be retained with a principal electric system. It is false reasoning to justify a test based on administrative convenience when that justification is relevant in only some cases, but not in all. The ABC tests do not make the distinction between different kinds of utility operation which the Petitioner's argument would require.

It is also false reasoning to favor a test because it fits particular factors to which the Commission wishes to give effect instead of determining the test intended by Congress and then giving effect to such factors as are relevant to that test.

Finally, the Petitioner's brief leaves unanswered the obvious question of how competitive advantages or disadvantages of independence can be more easily or effectively given "meaningful consideration" under the Commission's test than under the court's test. Just the reverse would appear to be true. It would seem easier to give consideration to this somewhat speculative factor, which the Petitioner says is "immeasurable", as one of the general circumstances in determining the substantiality of economies (a relative matter in any case) than in making an absolute yes-or-no determination of the ability of the system to continue economic operation.

III. THE RECORD OF ADMINISTRATIVE INTERPRETATION OF CLAUSE (A) BY THE COMMISSION IS NOT SUCH AS TO WARRANT "GREAT DEFERENCE" FROM THE COURT.

The Petitioner asserts that the standard which it now urges for Clause (A) is a long standing judicially approved administrative test which has been consistently applied by the Commission and which is entitled to great deference from this Court (Br. 10, 26-27).⁵³

⁵³ Notwithstanding the Petitioner's suggestion that the Court should defer to the Commission's interpretation of Clause (A), the question whether an administrative agency's interpretation of a statute is correct is ultimately for the Court to determine. NLRB

In its Petition for a Writ of Certiorari the Petitioner told the Court that in this case it had applied under Clause (A) the same test as "it had applied in every other divestiture case under Section 11(b)(1)" (Pet. 5), and that under that test "more than \$2,000,000,000 in utility assets have heretofore been divested on orders of the Commission" (Pet. 12).

The contention is now somewhat equivocated. In its brief the Petitioner suggests that in the earlier cases the test applied by the Commission really was "essentially the same" (Br. 27), that the Commission has "reemphasized the same themes" as were reflected in an earlier decision (Br. 28-29), and that the seemingly different tests stated by the Commission are nothing more than a "variation in choice of words, due for the most part to the varying contentions with which the Commission was dealing" (Br. 30).

Even in the course of this case, the Petitioner has stated a bewildering variety of different versions of its test with the result that it is very difficult to know just what that test is and, as the court below noted, to determine whether there is a difference between the Commission's test and a test of ultimate bankruptcy, and if there is a difference, the standard by which unsound and uneconomical operation is to be determined. (See R. 1458 n. 5). The tests stated by the Commission in its Findings and Opinion range from the test based "solely upon whether the increased operating costs occasioned by severance are 'substantial'" (R. 1273), apparently looking solely to the change in operating costs, to the other extreme that additional systems could be retained only if they were "'so small that they were incapable of independent economic operation.'" (R. 1261).

v. Hearst Publications, Inc., 322 U.S. 111, 120-21 (1944). In the final analysis the phrase "substantial economies" sets forth a legal standard and it must get its final meaning from judicial construction. Cf. *FTC v. Colgate Palmolive Co.*, 380 U.S. 374, 385 (1965).

Other tests stated in the instant case include:

- (i) There must be "'real economic need' for management together. . . ." R. 1261;
- (ii) The economies must have been "substantial in the sense that they were important to the ability of the additional system to operate soundly." R. 1261-62;
- (iii) The loss of economies must be "so important as to cause a serious impairment" of the additional system. R. 1263;
- (iv) "'The loss of substantial economies' must be such as to render the additional system incapable of sound and economical operation independent of the principal system." Pet. 2;
- (v) "'such additional system cannot be operated under separate ownership without the loss of economies so important as to cause a serious impairment.'" Pet. 5;
- (vi) "a holding company may not retain an additional . . . system unless it can show that such system is incapable of independent economical operation." Pet. 12; and
- (vii) "a loss is not 'substantial' unless it would render impossible 'economical or efficient operation'" R.1458.⁵⁴

1. The Prior Administrative Decisions under Clause (A) are Seriously Inconsistent and Confusing.

The earlier decisions of the Commission tend to show a "variation in choice of words", as the Petitioner now puts it (Br. 30), similar to that in the instant case. Analysis

⁵⁴ The court below criticised the Commission for its use of the word "efficient" which is taken from Section 1(b)(5) where it is used in connection with service and does not relate to the test of economy (T. 1463). The Petitioner in no way refutes or questions this analysis but instead now presents a different test which is not concerned with efficiency of service but is based on the concept of "soundness", presumably meaning financial soundness. In its 31st Annual Report, for the year 1965, the Commission reported to Con-

of these prior decisions leads to the conclusion that the test urged by the Petitioner in its brief is not of long standing and has not been consistently applied.

Of the more than \$2,000,000,000 of assets which the Petitioner claims have been divested under the test which it now urges, approximately \$1,062,800,000 of assets, or more than half, directly contradict the Petitioner's argument.⁵⁵ The interpretation applied in the divestiture of these assets was the one set forth by the Commission in *North American*, and followed by the Commission in several later cases: that the words should be given their normal and usual meaning connoting economies which would be important or significant in light of the circumstances:

"The normal and usual meaning of the word 'substantial' is a meaning connoting 'important'. And we think that this normal and usual meaning is compelled here. The degree of importance must be measured against the vital policy to which Clause (A) is an exception, *i.e.*, the policy of limiting holding companies to the operation of a single integrated public utility system."⁵⁶

gress that the test it had applied in this case was whether the additional system would be "incapable of independent economic operation". Securities and Exchange Commission, *31st Annual Report* 86 (1965).

⁵⁵ See Item 1 in Appendix B to this brief.

⁵⁶ *North American Co.*, 11 S.E.C. 194, 209 (1942). - On review, the Second Circuit approved the interpretation of "substantial" economies as meaning "important" economies, not merely something more than nominal, but said nothing as to the Commission's further reference to a policy of limiting holding companies to one system. *North American Co. v. SEC*, 133 F.2d 148, 152 (2d Cir. 1943), *aff'd on constitutional issues*, 327 U.S. 686 (1946). In its Brief the Petitioner omits entirely the test of substantiality formulated by the Commission in *North American*, and instead says that in the case (i) the Commission quoted "with approval" the remarks made by Senator Wheeler after passage of the Act (it did not); and (ii) the Commission "significantly stressed the importance of independent management, single-mindedly devoted to the operation of integrated properties and to the interests of the stockholders therein" (again, it did not). See Br. 28; 11 S.E.C. at 209, 211.

In *Engineers*,⁵⁷ involving another divestiture of approximately \$23,600,000 of assets, the Commission stated an intermediate test—loss which “would seriously impair the effective operations of the systems involved”—something more serious apparently than merely important, but not necessarily serious enough to destroy, only seriously impair, the capacity for effective operations. However, the actual decision rested on inadequacy of proof.

Additional divestitures of approximately \$750,100,000 of assets are irrelevant for the reason that the evidence in the cases was insufficient under any standard and the Commission disposed of all of them without stating any interpretation of Clause (A).⁵⁸

There remain three cases⁵⁹ involving divestiture of approximately \$146,400,000 of assets, or less than 7½% of the \$2,000,000,000 claimed by the Petitioner. In these three cases only has the Commission stated as its test under Clause (A) a standard similar to, not always identical with, its present test but in none of them does it appear that the test was the determining factor which led to the divestiture order. In *Philadelphia*, the Commission's opinion on the Section 11(b)(1) question was devoted principally to a criticism of the evidence and of the qualifications of the expert witness who testified on behalf of the respondent. The Commission rejected the evidence of the economies to be lost in its entirety. In the second case,

⁵⁷ *Engineers* Pub. Serv. Co., 12 S.E.C. 41, 57-65, 79-81, 86-88 (1942). In its description of this case in its brief (Br. 29-30) the Petitioner again fails to report the test of substantiality formulated by the Commission in *Engineers*. Instead Petitioner furnishes extensive quotations on the evidentiary issues which, although the principal issues in *Engineers*, are not in issue here: namely, whether evidence of “increased expenses” without more could show “loss of economies”, and the conclusion that “clear and convincing evidence” should be required. Br. 29-30; 12 S.E.C. at 57-58, 60-61. See Item 2 in Appendix B to this brief.

⁵⁸ See Item 3 in Appendix B to this brief.

⁵⁹ See Item 4 in Appendix B to this brief.

General Public Utilities, the Respondent did not contest divestiture, and in the third case, *Middle South Utilities*, the Respondent had submitted no study of any kind to show the economies to be lost by the additional system upon severance.

The Petitioner states in its brief that the Respondents "concede" that in the period since *Philadelphia* "the Commission has articulated no different test from the one it applied here" (Br. 27). That is somewhat misleading. More accurately stated, the Respondents' position is that only in *Philadelphia* and two cases since *Philadelphia*, being three out of the total of thirteen cases cited by the Petitioner, has a test like the present test even been "articulated" by the Commission (in the two other cases since *Philadelphia* no test was stated⁶⁰); that these three cases involved less than 7½% of the assets claimed by the Petitioner to have been divested under the test which it now advocates; and that even in these three cases the test was not determinative.

In brief, the Respondents say that the test is not long standing and that by no means has it been consistently applied.

2. The Weight of Judicial Decisions is Against the Petitioner's Position.

The test now urged by the Petitioner has been placed squarely in issue in two Courts of Appeals — in the First Circuit in this case and in the Fifth Circuit in the *Louisiana* case.⁶¹ Both times the test has been rejected by a unanimous court.

⁶⁰ See Item 3 in Appendix B to this brief.

⁶¹ *Louisiana Pub. Serv. Comm'n v. SEC*, 235 F.2d 167, 173 (5th Cir. 1956), *rev'd on jurisdictional grounds*, 353 U.S. 368 (1957). The Petitioner suggests that *Louisiana* has "no legal consequence" (Br. 33-34 n. 23), because this Court later reversed on jurisdictional grounds. So far as the parties to the case itself were concerned, that contention may have some meaning. However, the importance of the case as a definite and unanimous statement of the view of the Fifth Circuit is unimpaired, as clearly the Fifth Circuit thought that it did have jurisdiction and was in fact deciding the issue.

Three earlier Circuit Court cases also involved Clause (A) but they give the Petitioner's present position little, if any, support.

In *North American*⁶², the first case, the Second Circuit approved the Commission's interpretation in *North American* noted above: that "substantial" economies means "important" economies and not merely something more than nominal. The court naturally made no reference to the Commission's present interpretation, as it had not then been formulated.

In the second case, *Engineers*,⁶³ the District of Columbia Court of Appeals adopted the Second Circuit's interpretation in *North American*, but enunciated it at greater length. The majority of the court concluded there were three factors to be considered in determining "substantial economies", namely, that there be "a continuing substantial strength, enjoyed by the controlled company which it would not have under its own control", that there was "no reasonable expectation that a compensating strength would not be enjoyed by reason of its own control", and that the continuing strength of the controlled company "would not entail a sacrifice on the part of the controlling utility."⁶⁴ However, the decisive issue in *Engineers* was not the meaning of "substantial" but

⁶² *North American Co. v. SEC*, 133 F.2d 148, 152 (2d Cir. 1943), *aff'd on constitutional issues*, 327 U.S. 686 (1946). The Petitioner has failed to cite or discuss the Second Circuit's decision in its brief.

⁶³ *Engineers Pub. Serv. Co. v. SEC*, 138 F.2d 936, 944 (D.C. Cir. 1943), *cert. granted*, 322 U.S. 723 (1944), *dismissed as moot*, 332 U.S. 788 (1947).

⁶⁴ These three factors comprise a test of Clause (A) far less harsh than that advocated by the Petitioner in this case. The loss of a "continuing substantial strength" would be less than the loss of the capability of sound and economical operation (see above at pp. 44-45); "no reasonable expectation" is far different from an unsubstantiated presumption of offsetting benefits (R. 1470); and "sacrifice on the part of the controlling company" is recognition of an adverse effect on the principal system, which the Commission in the instant case considers irrelevant (R. 1264 n. 14).

whether the net effect of divestment could be established by evidence of operational savings through combined operations, without more. On this question the court divided, with the majority approving the Commission's requirement of "a clear and convincing showing that the operational savings through combination would be sufficient to support a finding that such single item of saving would constitute an overall substantial economy." Deciding the case on the inadequacy of the evidence, the majority did not reach the Commission's interpretation of "substantial" as used in Clause (A).⁶⁵

In the third case, *Philadelphia*⁶⁶, the District of Columbia Court of Appeals held that the Commission had not acted unreasonably in rejecting the utility's estimate of increased operating expenses as insufficiently established. The court added, moreover, that as was stated in *Engineers*, the mere showing of a material saving in operational expenses does not necessarily show the overall situation. The court agreed that the Commission could find support for its interpretation of "substantial economies" in parts of the legislative history. However, the court did not hold that the Commission's interpretation of "substantial" was correct; for the purposes of the decision that was not necessary. The court concluded:

" 'Substantial' is a relative and elastic term. Petitioners concede that economies, to be substantial, must be 'important.' We cannot say the Commission's under-

⁶⁵ The dissent by Judge Soper suggested that substantial savings in operational expenses can be substantial economies, and so in his dissent (unlike the majority opinion) the standard applied by the Commission had to be considered. Judge Soper's view was that the Commission was "putting it too strongly" to say "that there must be clear and convincing evidence of loss of economies which would seriously impair the efficiency of the systems." 138 F.2d at 945.

This Court granted a writ of certiorari in *Engineers*, and argument was heard, but the case was subsequently ordered vacated as moot. See n. 63 above.

⁶⁶ *Philadelphia Co. v. SEC*, 177 F.2d 720, 724 (D.C. Cir. 1949).

standing of the term 'substantial economies' is wrong. We construed it similarly in the *Engineers* case." 177 F.2d at 725.

In sum, the Commission's present test has been placed squarely in issue twice,, before the court below and in *Louisiana*. Both times it has been rejected. The earlier cases, *North American* and *Engineers*, involved a far less severe test, and in *Engineers* the actual decision pertained only to the evidentiary issue. *Philadelphia's* support for the Petitioner's test is weak: it is *dictum*, and the court itself thought it was going no further than it had in *Engineers*.⁶⁷

CONCLUSION

For the reasons stated, the decision of the court below should be affirmed.

Respectfully submitted,

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March 9, 1966

⁶⁷ The Respondents' reading of the *Engineers* and *Philadelphia* decisions is essentially the same as the Fifth Circuit's in *Louisiana*. See 235 F. 2d at 173.



APPENDIX A

STATUTE INVOLVED

SECTIONS 1(b) AND (c), 2(a)(29), 8 AND 11(b)(1) (A)-(C)
OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935*

SECTION 1. . . .

(b) Upon the basis of facts disclosed by the reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session), the reports of the Committee on Interstate and Foreign Commerce, House of Representatives, made pursuant to H. Res. 59 (Seventy-second Congress, first session) and H. J. Res. 572 (Seventy-second Congress, second session) and otherwise disclosed and ascertained, it is hereby declared that the national public interest, the interest of investors in the securities of holding companies and their subsidiary companies and affiliates, and the interest of consumers of electric energy and natural and manufactured gas, are or may be adversely affected—

(1) when such investors cannot obtain the information necessary to appraise the financial position or earning power of the issuers, because of the absence of uniform standard accounts; when such securities are issued without the approval or consent of the States having jurisdiction over subsidiary public-utility companies; when such securities are issued upon the basis of fictitious or unsound asset values having no fair relation to the sums invested in or the earning capacity of the properties and upon the basis of paper profits from inter-company transactions, or in anticipation of excessive revenues from subsidiary public-utility companies; when such securities are issued by a subsidiary public-utility company under circumstances which subject such company to the burden of supporting an overcapitalized structure and tend to prevent voluntary rate reductions;

*49 Stat. 803-04, 810, 817, 820 (1935), 15 U.S.C. §§ 79a(b) and (c), 79b(a)(29), 79h, 79k(b)(1) (1964).

(2) when subsidiary public-utility companies are subjected to excessive charges for services, construction work, equipment, and materials, or enter into transactions in which they result from an absence of arm's-length bargaining; when service, management, construction, and other contracts involve the allocation of charges among subsidiary public-utility companies in different States so as to present problems of regulation which cannot be dealt with effectively by the States;

(3) when control of subsidiary public-utility companies affects the accounting practices and rate, dividend, and other policies of such companies so as to complicate and obstruct State regulation of such companies, or when control of such companies is exerted through disproportionately small investment;

(4) when the growth and extension of holding companies bears no relation to economy of management and operation or the integration and coordination of related operating property or

(5) when in any other respect there is lack of economy of management and operation of public-utility companies or lack of efficiency and adequacy of service rendered by such companies, or lack of effective public regulation, or the raising of capital.

(c) when abuses of the character above enumerated become persistent and widespread the holding company becomes an agency which, unless regulated, is injurious to investors, consumers, and the general public; and it is hereby declared to be the policy of this title, in accordance with which policy all the provisions of this title shall be interpreted, to meet the problems and eliminate the evils as enumerated in this section, connected with public-utility holding companies which are engaged in interstate commerce or in activities which directly affect or burden interstate commerce, and for the purpose of effectuating such policy to compel the simplification of public-utility holding-company systems and the elimination therefrom of

properties detrimental to the proper functioning of such systems, and to provide as soon as practicable for the elimination of public-utility holding companies except as otherwise expressly provided in this title.

SECTION 2. (a) When used in this title, unless the context otherwise requires—

. . .

(29) “Integrated public-utility system” means—

(A) As applied to electric utility companies, a system consisting of one or more units of generating plants and/or transmission lines and/or distributing facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation; and

(B) As applied to gas utility companies, a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operation to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation: *Provided*, That gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region.

SECTION 8. Whenever a State law prohibits, or requires approval or authorization of, the ownership or operation by a single company of the utility assets of an electric utility company and a gas utility company serving substantially the same territory, it shall be unlawful for a registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, —

(1) to take any step, without the express approval of the State commission of such State, which results in its having a direct or indirect interest in an electric utility company and a gas utility company serving substantially the same territory; or

(2) if it already has any such interest, to acquire, without the express approval of the State commission, any direct or indirect interest in an electric utility company or gas utility company serving substantially the same territory as that served by such companies in which it already has an interest.

SECTION 11. . . .

(b) It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system: *Provided, however,* That the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

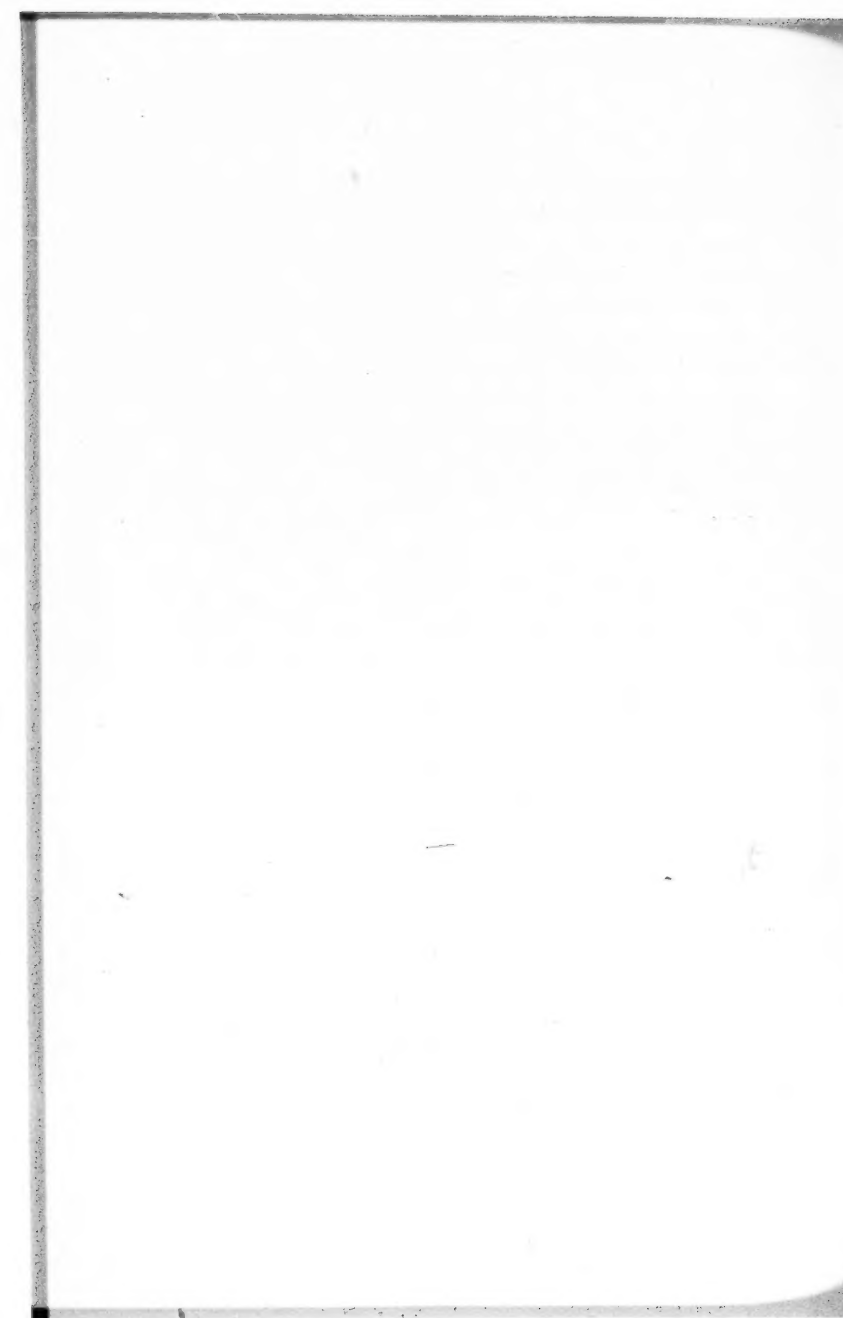
(A) Each of such additional systems cannot be operated as an independent system without the loss of sub-

stantial economies which can be secured by the retention of control by such holding company of such system;

(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation.

. . . .



APPENDIX B

CLASSIFICATION OF ADMINISTRATIVE CASES LISTED IN APPENDIX B TO THE PETITION FOR A WRIT OF CERTIORARI¹

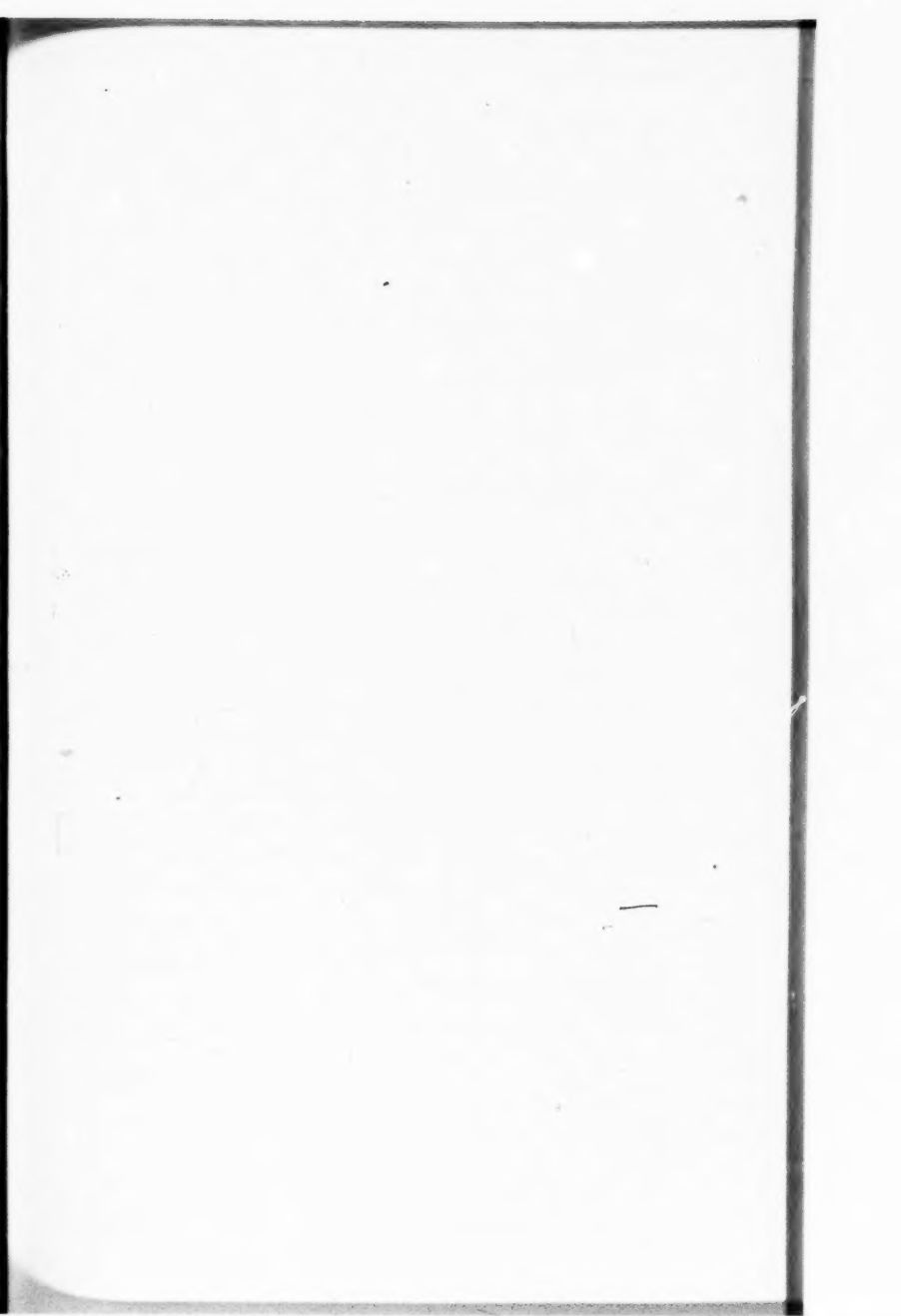
	Assets Divested
1. Cases stating or following test set forth by the Commission in <i>North America</i> (11 S.E.C. 194 (1942)):	
North American Co., 11 S.E.C. 194, 209 (1942)	\$ 659,158,089
Cities Serv. Power & Light Co., 14 S.E.C. 28, 37, 47-48 (1943) ²	59,995,535
Middle West Corp., 15 S.E.C. 309, 319 (1944)	97,751,921
Cities Serv. Co., 15 S.E.C. 962, 984 (1944)	148,258,253
American Gas & Elec. Co., 21 S.E.C. 575, 596-97 (1945)	97,684,103
Sub total	<u>\$1,062,847,901</u>
2. Proof inadequate but an intermediate test stated, namely, the loss "would seriously impair the effective operations of the systems involved" (12 S.E.C. at 61):	
Engineers Pub. Serv. Co., 12 S.E.C. 41, 57-65, 79-81, 86-88 (1942)	\$ <u>23,571,236</u>
3. Evidence insufficient under any standard and no interpretation of Clause (A) stated by Commission:	
North American Co. (St. Louis Properties), 18 S.E.C. 611, 613-15, 621 (1945)	\$ 13,129,400
Peoples Light & Power Co., 20 S.E.C. 357, 380-81 (1945)	182,000
Commonwealth & Southern Corp., 26 S.E.C. 464, 487-90 (1947) ³	722,259,916

	Asset Divested
Penn. Gas & Elec. Corp., 28 S.E.C. 553, 558 (1948)	\$ 2,349,409
Eastern Util. Ass'tes, 31 S.E.C. 329, 348-52 (1950)	12,234,309
Sub total	<u>\$ 750,155,034</u>
4. Test similar to Commission's present interpretation stated, but not determinative:	
Philadelphia Co., 28 S.E.C. 35, 46-47, 53-74 (1948)	\$ 113,605,913
General Pub. Util. Corp., 32 S.E.C. 807, 814-15, 826-27, 831 (1951)	13,757,386
Middle South Util., Inc., 35 S.E.C. 1, 11-13 (1953)	19,061,622
Sub total	<u>\$ 146,424,921</u>
Grand Total	<u><u>\$1,982,999,092</u></u>

¹ Figures are taken from that Appendix as they cannot in most instances be verified from the cited cases.

² Includes one subsidiary (net assets of approximately \$422,000 or only approximately 1% of the assets ordered divested in the case) as to which the Commission said that, although it was small, the record did not show the company was "incapable of economic, independent operation". This was viewed as "one of the guides which (*among others*) Congress intended to be used. . . ." 14 S.E.C. at 62. (Emphasis added.) Significantly, this language was not cited in support of the interpretation stated in *Philadelphia*. (See Item 4 above.)

³ Includes one subsidiary (net assets of approximately \$28,000,000 or only approximately 4% of the assets ordered divested in the case) which the utility had agreed to divest and which the Commission held not retainable under Clause (C) but as to which the Commission also quoted the language stated in note 2 above. 26 S.E.C. at 487, 489.





SUPREME COURT OF THE UNITED STATES

No. 636.—OCTOBER TERM, 1965.

Securities and Exchange Com- mission, Petitioner, v. New England Electric System et al.	}	On Writ of Certiorari to the United States Court of Appeals for the First Circuit.
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[May 16, 1966.]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

New England Electric System (NEES) is a holding company registered under § 5 of the Public Utility Holding Company Act of 1935.¹ Its holdings include both electric and gas utility properties. The electric companies serve retail customers in New Hampshire, Massachusetts, Rhode Island, and Connecticut. The gas companies serve retail customers in Massachusetts alone. The Commission, proceeding under § 11 of the Act,² held that the electric utility subsidiaries of NEES comprised an "integrated electric utility system" as defined in § 2 (a) (29) (A).³ 38 S. E. C. 193. The question in this

¹ 49 Stat. 812, 15 U. S. C. § 79e (1964 ed.).

² 49 Stat. 820, 15 U. S. C. § 79k (1964 ed.).

³ 49 Stat. 810, 15 U. S. C. § 79b (a) (29) (A) (1964 ed.). An "integrated public-utility system" as applied to *electric utility companies* is defined by § 2 (a) (29) (A) as "a system consisting of one or more units of generating plants and/or transmission lines and/or distributing facilities, whose utility assets, whether owned by one or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation."

case does not concern these electric utility subsidiaries but only the gas utility subsidiaries of NEES, which both NEES and the Commission agree constitute an "integrated gas utility system" within the meaning of § 2 (a)(29)(B) of the Act.⁴

By § 11 (b)(1)⁵ a holding company system is to be limited in operations by the Commission "to a single integrated public-utility system,"⁶ provided however that it may be permitted to control one or more additional "integrated public-utility systems" if the Commission finds, *inter alia*, that "[e]ach of such additional systems cannot be operated as an independent system *without the loss of substantial economies* which can be secured by the retention of control by such holding company of such system." § 11 (b)(1)(A). (Italics supplied.) It is on the meaning of this proviso that the present controversy depends. The Commission found that divestment of NEES' gas utilities would not result in a "loss of substantial economies" to these companies within the meaning of § 11 (b)(1)(A). It construed Clause (A) to require a showing that the "additional

⁴ 49 Stat. 810, 15 U. S. C. § 79b (a)(29)(B) (1964 ed.).

An "integrated public-utility system" as applied to *gas utility companies* is defined by § 2 (a)(29)(B) as "a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation."

⁵ 49 Stat. 820, 15 U. S. C. § 79k (b)(1) (1964 ed.).

⁶ The Commission has long held that a single "integrated public-utility system" cannot include both gas and electric properties. See *Columbia Gas & Electric Corp.*, 8 S. E. C. 443, 462-463; *The United Gas Improvement Co.*, 9 S. E. C. 52, 77-83; *Philadelphia Co.*, 28 S. E. C. 35, 44. Respondent does not contest this aspect of the Commission's reading of the Act.

system cannot be operated under separate ownership without the loss of economies so important as to cause a serious impairment of that system." The Commission ruled that it was unable "to find that the gas companies could not be soundly and economically operated independently of NEES." It found that any losses of economies would be offset by the benefits that would flow from the healthy competition between the independently controlled gas and electric companies, promotion of competition between gas utilities and electric utilities being an important purpose of the Act. Accordingly, it ordered that the gas utilities be divested.

On petition for review the Court of Appeals reversed on the ground that the Commission had misinterpreted the statutory phrase "loss of substantial economies." 346 F. 2d 399. The court held that Clause (A) "called for a business judgment of what would be a significant loss, not for a finding of total loss of economy and efficiency" (346 F. 2d, at 406), and, believing that on this record and with the statute so interpreted there could have been a finding in favor of NEES, remanded the case to the Commission. We granted certiorari, 382 U. S. 953.

We agree with the Commission's reading of Clause (A) and remand the cause to the Court of Appeals so that there may be a review of the challenged order in light of the proper meaning of the statutory term.

The requirement in § 11 of a "single integrated" system is the "very heart" of the Act.⁷ The retention of an "additional" integrated system is decidedly the exception.⁸ As originally passed by the Senate, § 11 would have limited all registered holding companies to a single "geographically and economically integrated public-

⁷ *North American Co. v. SEC*, 327 U. S. 686, 704, n. 14; S. Rep. No. 621, 74th Cong., 1st Sess., 11.

⁸ *North American Co. v. SEC*, *supra*, at 696-697.

utility system.”⁹ The House version differed in that it permitted the Commission to make exceptions where limitation of the operations of the holding company was not found to be “in the public interest.”¹⁰ The version with which we deal emerged from a conference committee. The scope of the exception as it appears in the bill’s final form was thus explained to the House:

“Section 11 of both bills [i. e. the House and Senate versions], therefore, authorizes the Securities and Exchange Commission to require a holding company to limit its control over operating utility companies to *one integrated public-utility system*.

“The conference substitute meets the House desire to provide for further flexibility by the statement of additional definite and concrete circumstances under which exception should be made to the form of one integrated system. . . .

“The substitute, therefore, makes provision to meet the situation where a holding company *can show a real economic need* on the part of the additional integrated systems for permitting the holding company to keep these additional systems” (H. R. Rep. No. 1903, 74th Cong., 1st Sess., 70-71, italics supplied.)

Additional light is shed on the purpose of § 11 by the remarks of Senator Wheeler, a member of the conference committee:

“Since both bills accepted the proposition that a holding company should normally be limited to one

⁹ S. 2796, § 11 (b), 74th Cong., 1st Sess. And see S. Rep. No. 621, 74th Cong., 1st Sess., 32.

¹⁰ S. 2796, § 11 (b), as passed by the House of Representatives, and sent to the Senate on July 9, 1935. And see H. R. Rep. No. 1318, 74th Cong., 1st Sess., 17.

integrated system, my colleagues and I conceived it to be our task to find what concrete exceptions, if any, could be made to this rule that would satisfy the demand of the House for some greater flexibility. After considerable discussion the Senate conferees concluded that the furthest concession they could make would be to permit the Commission to allow a holding company to control more than one integrated system if [among other tests] the additional systems were in the same region as the principal system and were so small that they were *incapable of independent economical operation . . .*" 79 Cong. Rec. 14479.

As the Commission said in 1948:

"The legislative history of Section 11 (b)(1) indicates that it was the intent of Congress to create only a limited exception to the general rule confining holding companies to a single system, and that this exception was created to deal with the situation in which the proven inability of the additional system to stand by itself would result in substantial hardship to investors and consumers were its relationship with the holding company terminated." *Philadelphia Co.*, 28 S. E. C. 35, 46.

While the Commission has variously phrased the rule, it has consistently adhered to that view.¹¹

¹¹ Respondent concedes that the Commission has, since 1948, "articulated" a test "like the present test." See *Philadelphia Co.*, 28 S. E. C. 35, 46-47, 53-74; *General Public Utilities Corp.*, 32 S. E. C. 807, 814-815, 826-827, 831; *Middle South Utilities Inc.*, 35 S. E. C. 1, 11-13. Respondent contends, however, that previous decisions of the Commission applied a less restrictive standard of "substantial economies." The Commission disagrees, urging that while there was "some variation in choice of words," it has maintained a basically consistent position and that any semantic differences are due largely to "the varying contentions with which the

This suggests a much more stringent test than "a business judgment of what would be a significant loss," to quote the Court of Appeals. 346 F. 2d, at 406. Promotion of "economy in management and operation" and "the integration and coordination of *related* operating properties" (§ 1 (b)(4), 49 Stat. 804, 15 U. S. C. § 79a (b)(4), emphasis added) is a theme that runs throughout the Act. But so does the theme of eliminating of "restraint of free and independent competition."¹² § 1 (b)

Commission was dealing." The cases referred to are *North American Co.*, 11 S. E. C. 194, 208-213; *Engineers Public Service Co.*, 12 S. E. C. 41; *Cities Service Power & Light Co.*, 14 S. E. C. 28, 37; *Middle West Corp.*, 15 S. E. C. 309, 319; *Cities Service Co.*, 15 S. E. C. 962, 984; *American Gas & Electric Co.*, 21 S. E. C. 575, 596-597. We do not read those cases as being inconsistent with the Commission's position since 1948. In each of these cases the Commission found no showing of "substantial economies" under whatever test might be applied; thus it was not there compelled to go further. There are, to be sure, a few cases in which the Commission permitted retention of small additional systems on the ground that the requirements of § 11 (b)(1) were met; in these, however, the Commission did not articulate any standard. See, e. g., *Federal Light & Traction Co.*, 15 S. E. C. 675, 683; *Republic Service Corp.*, 23 S. E. C. 436, 451. But cf. *The North American Co.*, 11 S. E. C. 194, 243-244.

We cannot say that these early decisions show any clear inconsistency with the standard which the Commission today applies, and has applied since 1948. Under these circumstances, we feel justified in regarding the Commission's reading of the statute as supported by consistent administrative practice.

¹² Section 1 (b)(2) provides ". . . [I]t is hereby declared that the national public interest, the interest of investors in the securities of holding companies and their subsidiary companies and affiliates, and the interest of consumers of electric energy and natural and manufactured gas, are or may be adversely affected . . . (2) when subsidiary public-utility companies are subjected to excessive charges for services, construction work, equipment, and materials, or enter into transactions in which evils result from an absence of arm's-length bargaining or from restraint of free and independent competition; . . ." (Italics added.)

(2), 49 Stat. 803-804, 115 U. S. C. § 79a (b)(2). One of the evils that had resulted from control of utilities by holding companies was the retention in one system of both gas and electric properties and the favoring of one of these competing forms of energy over the other.¹³

¹³ See S. Rep. No. 621, 74th Cong., 1st Sess., 29; Report of National Planning Committee, H. R. Doc. No. 137, 74th Cong., 1st Sess., 10 (Appendix to S. Rep. No. 621, 74th Cong., 1st Sess.).

Congress was well aware of the anti-competitive potential of corporate structures through which control of gas and electric utility companies rests under the umbrella of a single holding company. That a holding company so situated might retard expansion of the gas utility company in favor of the electric utility company was expressly discussed on the Senate Hearings on an earlier version of the Act. See Hearings before the Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess., 783.

Congress made specific provision in § 8 of the Act to prohibit a registered holding company from acquiring an interest in both an electric and a gas utility serving the same territory in a State which prohibits common control, without first obtaining permission from the appropriate state regulatory agency. While § 8 reflects the concern of Congress with this aspect of competition (see S. Rep. No. 621, *supra*, at 29-30; Report of National Power Policy Committee, *supra*, at 10), there is no warrant for concluding that § 8 was the exclusive legislative effort relating to the problem. The history of the Act reflects the presence of a sophisticated statutory scheme. To some extent, local policy was expected to govern, with § 8 serving to prevent circumvention of that policy by use of the "extra-State device of a holding company." S. Rep. No. 621, *supra*, at 29-30. At the same time, § 11 was expected to assist in imposing restrictions with regard to the combination of gas and electricity in one system. Discussing the interplay between § 8 and § 11, the Senate Committee noted that § 8 only applied to future acquisitions: "The committee felt that while the *policy upon which this section was based was essential in the formation of any Federal legislation on utility holding companies*, it did not think that the section should make it unlawful to retain (*up to the time that section 11 may require divestment*) interests in businesses in which the companies were lawfully engaged on the date of the enactment of the title." *Id.*, at 7. (Italics supplied.)

In the present case the Commission said on this phase of the controversy:

"Although the NEES Gas Division handles sales and promotional activities and various other matters for the gas subsidiaries separately from the electric companies, final authority on all important matters rests in the top NEES management. The basic competitive position that exists between gas and electric utility service within the same locality is affected by such vital management decisions as the amount of funds to be raised for or allocated to the expansion or promotion of each type of service."¹⁴

Competitive advantages to be gained by a separation are difficult to forecast. The gains to competition might well be in the public interest and might well offset the estimated loss in economies of operation¹⁵ resulting from a separation of the gas from the utility system. This is a matter for Commission *expertise* on the total competitive situation, not merely on a prediction whether, for example, a gas company in a holding company system may make more for investors than a gas company converted into an independent regime.

¹⁴ By fostering competition between gas and electric utility companies, the Act promotes what has been described as "variegated competition." Hearings before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 89th Cong., 1st Sess., pt. 2, 840 (1965) (Statement of Dr. Samuel M. Loescher). "But since the distribution of electricity, following geographical divorcements, was to remain a natural monopoly in every region, the only kind of competition to be enhanced was that of 'variegated competition.'" *Ibid.*

¹⁵ See, e. g., Hearings before House Committee on Interstate and Foreign Commerce on H. R. 5423, 74th Cong., 1st Sess., 1249, 1402-1403, 1530-1531, 2257-2277; Hearings before Senate Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess., 65. It was only the loss of "substantial economies" that Congress thought would justify an exception from the separation rule of § 11.

The phrase "without the loss of substantial economies" is admittedly not crystal clear. But the Commission's construction seems to us to be well within the permissible range given to those who are charged with the task of giving an intricate statutory scheme practical sense and application. *Power Reactor Co. v. Electricians*, 367 U. S. 396, 408. And see *Philadelphia Co. v. SEC*, 177 F. 2d 720, 725.

Reversed.

SUPREME COURT OF THE UNITED STATES

No. 636.—OCTOBER TERM, 1965.

Securities and Exchange Com- mission, Petitioner, v. New England Electric System et al.	}	On Writ of Certiorari to the United States Court of Appeals for the First Circuit.
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[May 16, 1966.]

MR. JUSTICE HARLAN, whom MR. JUSTICE STEWART joins, dissenting.

The question before the Court is the meaning of the phrase "loss of substantial economies" as it appears in § 11 (b)(1) of the Public Utility Holding Company Act of 1935.¹ The Court of Appeals ruled that the phrase "called for a business judgment of what would be a significant loss," 346 F. 2d, at 406, and I agree with this rendering which is both sensible and, in my view, obvious. This Court's opinion on the other hand seems to hold that the phrase demands a loss great enough to imperil "sound" corporate operations.² That holding, as I shall

¹ 49 Stat. 820, 15 U. S. C. § 79k (b)(1). This subsection provides that a holding company shall be limited to "a single integrated public-utility system," provided that the Commission shall permit control of additional systems if:

"(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

"(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

"(C) The continued combination of such systems under the control of such holding company is not so large (considering the state or the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation."

² I say "seems" to hold both because two statements in the opinion (*ante*, pp. 3, 8) emphasize a supposed offsetting economic saving to

indicate, is at odds with the Act's wording, has little basis in legitimate statutory history or the aims of the Act, and cannot be sustained by agency or judicial precedent.

Inquiry naturally begins with the language of the Act, and with our reiterated principle that "the words of statutes . . . should be interpreted where possible in their ordinary, everyday senses." *Crane v. Commissioner*, 331 U. S. 1, 6; *Malat v. Riddell*, 383 U. S. 569, 571. In this instance plainly the normal meaning of "substantial economies" is a significant amount of money and not that amount whatever its size which guarantees corporate survival. The first reading would be given by lawyers and laymen alike automatically while the second could hardly be imagined without the prompting of persuasive legislative evidence. If Congress had intended the Court's test to govern, it could easily have said so in shorter space and with far greater precision.³ In addition, the Court's decision will apparently result in "substantial economies" being read its way in § 11 (b)(1) but in a quite different, more normal fashion where the same phrase appears in § 2 (a)(29)(B), defining an integrated gas utility system (see *ante*, n. 4, of the Court's opinion). None of this is to say that the many subtle choices to be made in deciding what is a substantial sum in the present context are dictated by the terse language of the Act. See *infra*, n. 11. The choice here, however, is between

be found in divestiture and because the SEC has stated the test in this case in varying terms.

³ This could in fact have been accomplished simply by chopping off the last half of the present, controlling clause (*supra*, n. 1), leaving the condition to read "each of such additional systems cannot be operated as an independent system" and omitting wholly the qualifying language which begins "without the loss of substantial economies."

two broad approaches, and the Act's language invites the first and repels the second.

If the natural reading produced some strange or arbitrary result there might be reason to hesitate; but in this case the literal reading makes excellent sense in serving the very rational and desirable end of financial economy. The Congress that passed the Act had been importantly concerned with the "intensification of economic power beyond the point of proved economies . . ." H. R. Doc. No. 137, 74th Cong., 1st Sess., 4; see §§ 1 (b)(4), (5) of the Act, 15 U. S. C. §§ 79a (b)(4), (5) (policy statement), and the Act itself bristles with provisions aimed largely at attaining efficient management and operations. See §§ 7 (d)(3), 10 (c)(2), 12 (d), (f), (g), 13, 15 U. S. C. §§ 79g (d)(3), 79j (c)(2), 79l (d), (f), (g), 79m. With this background, nothing could be more plausible than to curtail divestiture at the point where the prospect of substantial losses removed a prime reason for having divestiture at all. There are to be sure other dangers in proliferated growth besides diseconomy, dangers which played their part in the passage of the Act, but there are also other clauses of § 11 (b)(1) whose conditions must be met before the exception is allowed (see *supra*, n. 1). In sum, it seems clear enough that the burden of persuasion rests upon those who would displace the Court of Appeals' interpretation.⁴

Legislative history and purpose, heavily relied on by the Court, furnish no reason for departing from the natural reading of the Act. There was very little direct explanation of the "substantial economies" provision in Congress; the majority opinion sets out in full the two

⁴ "It . . . [is] wrong to deny the natural meaning of language its proper primacy; like Cardozo's 'Method of Philosophy,' it 'is the heir presumptive. A pretender to the title will have to fight his way.'" Friendly, Mr. Justice Frankfurter and the Reading of Statutes, in Felix Frankfurter: The Judge 40 (1964).

important statements, one by the House Conference Committee (*ante*, p. 4) and the other by Senator Wheeler (*ante*, pp. 4-5).⁵ The Committee Report, highly authoritative but unilluminating, says merely that there must be "a real economic need" to justify retention of an additional system. Indisputably, substantial savings can be labeled a real economic need, the more so since Congress was sharply concerned with the lack of economic justification for many utility combinations. That the Committee's language is also compatible with the SEC's reading of "substantial economies" does no more than make that language a useless guidepost.

Senator Wheeler's statement by contrast does support if indeed it is not the source of the SEC interpretation, and normally the view of a principal sponsor of an Act carries heavy weight. Here, however, Senator Wheeler made his remarks *after* the bill had finally passed both Houses, and quite arguably "[t]he views of individual members of the legislature as to the meaning of a statute which were not officially communicated to the legislature prior to its enactment are not competent to be considered in determining the meaning which ought to be attributed to the statute." Hart and Sacks, *The Legal Process* 1285 (tent. ed. 1958). Moreover, in this instance Senator Wheeler had been a fierce opponent of allowing any exception at all to the one-system principle, see 346 F. 2d, at 403, and had excellent reason to minimize severely the scope of the present provision when to do so could no longer cost the Act votes. The SEC itself in its early days, before the elevation of the

⁵ One other legislative comment on the provision favors the Commission, 79 Cong. Rec. 14165-14166 (remarks of Mr. Cooper), but the Court of Appeals properly disregarded it as an opponent's attempt to blacken the Act, see *Labor Board v. Fruit Packers*, 377 U. S. 58, 66, and the SEC no longer relies upon it in its brief.

Wheeler statement to its present exaggerated importance, took a far more guarded view of its worth.⁶

To support its construction of the "substantial economies" provision, the Court also relies on two general policies attributed to the Act as a whole. It is initially emphasized that the Act's overriding aim was to confine holding companies to a single integrated system while control of additional systems was to be "decidedly the exception" (*ante*, p. 3). The mild but misleading inference is that the "exception" is some minor, little noticed addendum, to be strictly construed. In truth, the original, more stringent version of § 11, popularly known as the "death sentence" provision, was bitterly opposed and the "A"- "B"- "C" clauses exception with Clause A of which we now deal (*supra*, n. 1) was adopted as a considered compromise between quite different House and Senate versions. See Ritchie, *Integration of Public Utility Holding Companies* 16-19, 151 (1954). The ABC clauses represent part of the price openly paid for enactment, and there is no basis in these events for a grudging interpretation.⁷

Far more weight is given by the Court's opinion to the Act's supposed hostility toward common control of gas

⁶ The statement was quoted as cumulative, minor evidence on another matter in 1941, the SEC admitting that it "may not strictly be considered part of the legislative history" but saying it deserved "some consideration." *Engineers Pub. Serv. Co.*, 9 S. E. C. 764, 783-784. In 1942, it was quoted as bearing on the present question but its test was not adopted *North American Co.*, 11 S. E. C. 194, 209. The following year the statement was thought to reveal "one" of the various criteria to be used along with others. *Cities Serv. Power & Light Co.*, 14 S. E. C. 28, 62.

⁷ For its "decidedly the exception" characterization, the Court cites (*ante*, p. 3, n. 8) *North American Co. v. SEC*, 327 U. S. 686. That decision imparted no such gloss to the ABC clauses but was giving a most cursory summary in passing on the constitutionality of § 11 (b) (1).

and electric utility systems with its danger of stifled competition. First of all, this hostility appears to be an illusion. The House and Senate Committees in identical language expressly stated that common ownership of competing forms of energy was "a field which is essentially a question of State policy"; the present § 8, 15 U. S. C. § 79h, was enacted to support this approach by using federal power to limit common ownership only where it is contrary to state law. See S. Rep. No. 621, 74th Cong., 1st Sess., 29-30; H. R. Rep. No. 1318, 74th Cong., 1st Sess., 14-15.⁸ In its decision in this very case the SEC stated: "We do not take the view that the Act expresses a federal policy against combined gas and electric operations as such." Holding Co. Act Release No. 15035, p. 15. This was apparently so clear at the time the Act passed that in an early and now-repudiated decision the SEC went so far as to hold that gas and electric companies could be combined in the *same* single

⁸ The Court's opinion (*ante*, p. 7, n. 13) quotes from p. 7 of the above cited Senate report, borrowing from it language that suggests § 11 was forwarding the same policy as § 8. What the Court overlooks is that this discussion was directed to an earlier and very different version of § 8, in which it also embodied other restrictions on holding company ownership having nothing to do with common control of gas and electricity but closely related to § 11's policy of federally imposed simplification. A reading of the Court's quotation in context along with the relevant version of S. 2796, 74th Cong., 1st Sess., §§ 8, 11 (as reported on May 13, 1935) will quickly show that its reliance is misplaced. The majority's other citations in the same footnote are also infirm. The first two citations are statements on behalf of the rule that is now § 8, which allows the States to decide the issue. The remaining citation to the Senate Hearings does indeed reveal one Senator's general concern with common ownership's impact on competition; the respondent states it is "the only such reference in the entire Senate hearing." Brief, p. 37, n. 45.

integrated public utility system. *American Water Works & Elec. Co.*, 2 S. E. C. 972 (1937).

Furthermore, a constricted reading of the "substantial economies" provision is a quite unsuitable way of responding to the dangers in common ownership of competing types of utilities. The provision is equally intended to govern common control of two or more gas systems or two or more electric systems and, at least in the abstract, the Court's reading will hinder those arrangements as well though its rationale is irrelevant to them. If the SEC is prepared to show that freeing a gas system from control by an electric system will improve earnings by some amount, then this may be a legitimate offset to the losses that can be shown, and there is leeway for rough calculations and for estimates based on studying past separations. See *Ritchie, Integration of Public Utility Holding Companies*, 143-147 (1954). But to dispense with proof and disregard the basic test of "substantial economies" is to undo Congress' own careful compromise of the various conflicting policy interests.⁹

There remains to be answered only the Court's claim that its reading of the statute is "supported by consistent administrative practice" (*ante*, p. 6, n. 11). Analysis of the SEC decisions shows that the Court is mistaken.

⁹ It should again be remembered also that the present provision is not the only legislative safeguard. Even to obtain ownership over two systems, a holding company must, along with proving "substantial economies," show that there is geographical unity and that the combination is not so large as to impair "the advantages of localized management, efficient operation, or the effectiveness of regulation" (*supra*, n. 1). Section 8 (*supra*, p. 6) acts as a further restraint in some cases. Other sections of the Act regulate transactions between utility companies and require disclosure of reports and maintenance of accounting data and other records. §§ 12 (f), 13 (a), 14, 15, 15 U. S. C. §§ 79l (f), 79m (a), 79n, 79o.

The first important construction of "substantial economies" came in *North American Co.*, 11 S. E. C. 194, decided in 1942 only several years after the Act took effect. Rejecting the assertion that any saving beyond a wholly nominal one would do, the SEC stated: "The normal and usual meaning of the word 'substantial' is a meaning connoting 'important.' And we think that this normal and usual meaning is compelled here." *Id.*, at 209. At least four subsequent decisions cite *North American* and adopt its "importance" test, a natural reading of the Act rather than the unusual and specialized one adopted today. *Cities Serv. Power & Light Co.*, 14 S. E. C. 28, 37 (1943); *Middle West Corp.*, 15 S. E. C. 309, 319 (1944); *Cities Serv. Co.*, 15 S. E. C. 962, 984 (1944); *American Gas & Elec. Co.*, 21 S. E. C. 575, 597 (1945). Also during this first decade of the Act's enforcement two decisions, including one just cited, said that inability to operate independently was "one of the guides which (among others) Congress intended to be used" *Cities Serv. Power & Light Co.*, 14 S. E. C. 28, 62 (1943); *Commonwealth & Southern Corp.*, 26 S. E. C. 464, 489 (1947). In one other case the SEC stated the loss must be one which would "seriously impair . . . effective operations." *Engineers Pub. Serv. Co.*, 12 S. E. C. 41, 61 (1942).

The majority opinion says that the respondent "concedes" that the Commission has since 1948 articulated its present test, and three SEC decisions are then cited (*ante*, p. 5, n. 11). But with the *Engineers* case just cited as a possible addition, these are the only three decisions until the present one to state the Court's test out of the 15 or more decisions applying § 11 (b)(1), taking the ones already mentioned with those that established no test. Furthermore, the respondent asserts that the three SEC decisions stating its present test involved a very small percentage of the assets it has divested, and

even in those three cases it is not clear that the test was determinative. Brief, pp. 47-48. In sum, whether or not the SEC's early decisions may be said actually to refute the test now urged, certainly there is no consistent administrative practice lending it any real weight. Before leaving precedent, it should also be noted that the First and Fifth Circuits have squarely rejected the SEC's present interpretation and that the Second Circuit has approved its "importance" gloss, while only the District of Columbia Circuit has upheld the present reading.¹⁰

To conclude, I think it should be noted that the Court's departure from the statute is not just an abstract legal error but does immediate, tangible harm in a most practical sense. The annual losses which respondent has forecast for its gas system because of separation exceed \$1,000,000, a figure the SEC has questioned in part but not yet properly considered. The respondent's analysis also shows annual losses of \$800,000 for the electrical system, although the SEC deems irrelevant losses to the primary system and the Court of Appeals did not reach this issue. The heavy losses in this case will presumably be borne by investors and consumers if the figures are accurate and separation occurs; it is noteworthy that the Massachusetts Department of Public Utilities appeared at the hearings in this case to oppose divestiture. The SEC has wide latitude in deciding how to gauge and compute "substantial economies" and it has used that

¹⁰ The Fifth Circuit case is *Louisiana Pub. Serv. Comm'n v. SEC*, 235 F. 2d 167. It was reversed here on jurisdictional grounds, 353 U. S. 368, which does not of course impair its statement on the merits. The Second Circuit decision is *North American Co. v. SEC*, 133 F. 2d 148, aff'd on constitutional questions, 327 U. S. 686. The District of Columbia decision is *Philadelphia Co. v. SEC*, 177 F. 2d 720; that court thought it was following its earlier two-to-one decision in *Engineers Pub. Serv. Co. v. SEC*, 138 F. 2d 936, cert. granted, 322 U. S. 723, vacated as moot, 332 U. S. 788, but *Engineers* is ambiguous.

freedom in the past.¹¹ What the Commission has no right to do, however, is to substitute to the detriment of business interests and the public alike a quite different standard for the one enacted by Congress. Neither does this Court have that right. I would affirm the Court of Appeals' well considered decision.

¹¹ Among examples—and I do not mean to approve or disapprove the ones I cite—are SEC rulings that as noted it will not consider losses to the principal system, *General Pub. Utils. Corp.*, 32 S. E. C. 807, 838-839 (1951); that it will not consider tax losses as a very significant factor, *Cities Serv. Co.*, 15 S. E. C. 962, 985 (1944); that it will give only limited weight to capital costs of divestiture, *Eastern Utils. Associates*, 31 S. E. C. 329, 349 (1950); and that it will offset predicted gains resulting from separation against the losses, *North American Co.*, 18 S. E. C. 611 (1945).

